SPEECH

OF

HON. JACOB COLLAMER, OF VERMONT,

ON

AFFAIRS IN KANSAS.

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AFFAIRS IN KANSAS.

TUESDAY, *April* 3, 1856.

The Senate, as in Committee of the Whole, having under consideration the bill to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union when they have the requisite population—

Mr. COLLAMER said: Mr. President, I remember that a few years since there was published in Virginia, a work called "New Views of the Constitution." It struck me as being a very extraordinary title. "New Views of the Constitution"—that is, views which those who made the Constitution never entertained; otherwise they would not be new. But, sir, my surprise at that title has gradually passed away. I cannot but have observed, and I think all gentlemen must have observed, that there seems to be a very great desire on this subject, as on most others, on the part of some men in the community, to gratify a very inordinate curiosity, and to express and manifest a great deal of ingenuity in getting up *new views* of the Constitution. The very fact that they are new should be sufficient, in my estimation, to condemn them. We want no new views of the Constitution. To ascertain what were the original views of its framers is a proper subject of investigation. We should resort to all the lights which we can obtain in the history of our political experience and legislation. We should endeavor to travel under the influence of those lights so as to arrive at a correct conclusion in regard to constitutional questions.

It is known to men of legal experience, that there is such a thing as what is called cotemporaneous construction; and we not only know its existence, but many have experienced great advantage from its use. When any degree of ambiguity exists in reference to the construction of any paper, contract, law, or statute—whether in private life or in relation to public affairs, and especially when it is a paper of long standing, much light may frequently be obtained by ascertaining what was the construction at the time when it was written—what course of conduct was followed by the parties immediately on the inception of the contract, immediately on the making of the paper, immediately on the promulgation of the law. If we can ascertain from the light derived from their conduct and their action how they understood it, we consider ourselves as having made one step in the progress of truth.

I hardly know of any one branch of our Constitution where I consider cotemporaneous construction so important as in regard to the subject of slavery, and especially in relation to the rights and interests of those States who claim and hold slaves. To them cotemporaneous construction is, I think, a matter of the deepest importance. They are the part of the United States which, I think, would derive on this subject the least possible advantage from new views of the Constitution.

I have made this last remark for a reason which I will state. If a man were to take our Constitution, and should close the volume of our history, and should obliterate our legislation, and read that book without these lights, I think he would come to the conclusion that there never was such a thing as slavery in the country. There is nothing in the instrument that would lead him to dream of its existence. I know that it is somewhat difficult to ascertain how much we should learn from the reading of any particular paper or book, without the lights of experience around us. It is as difficult, perhaps, as for a man now to determine how much he would know in relation to the moral attributes of the Deity if he had not the light of revelation around him. The truth is he has that light around him, and it is difficult for him to judge how much he would be able to discover if he had it not. We have the lights of our experience; we have the lessons of our political history; and it is difficult for us to read the Constitution without those lights. Still I think it would be practicable to a considerable extent.

There are only three places in the Constitution in which, as we now understand the subject, slavery is alluded to at all. In the second section

of the first article of the Constitution it is provided that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

Let a man, with a perfect knowledge of the English language, read that clause without the lessons of our history and legislation, and I ask in all candor—though he might be a highly intelligent man—what would he think about it? He would say, "three fifths of all other persons! I am stumbled at what they did mean; what other persons could there be? you have included all free people, and excluded all Indians, and who else could there be?" Remember he has not history to go to. I ask any man on earth how would he answer that question? It cannot be answered.

The next place where it is supposed the subject is alluded to a little obliquely, and by circumlocution, is this provision:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808."

If a man should read that clause alone, would he ever think that it alluded to slaves or slavery? Is there any intimation in it which would make a man dream of any such thing? Certainly not. All he could conclude from it would be, that some States wished to encourage foreign immigration, and some did not; that some wished to fill up their territory, and some did not; and, therefore, they regulated it for the time being, by providing that each State should do as it pleased. That is all that evidently could be inferred from the reading of this clause.

The third place in which it is alluded to is the provision, that "no person held to service or labor, by the laws of one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up." Try the same experiment again; read it from the light of that clause alone, and would anybody dream of the existence of slavery? Never; never.

I presume, Mr. President, that other gentlemen, like myself, have, in the course of the present session, received somewhat of a large pamphlet, or volume, in which the subject is taken up and discussed. It is, in fact, an abolition paper. It is a long argument founded on the position, that, if you read the provisions of the Constitution, they do not recognize slavery at all; that it is a charter of liberty, and therefore the existence of slavery is unconstitutional everywhere in the Union. That argument is drawn from the reading of the Constitution from its own mere light, without any possible reflection from other quarters.

Now, Mr. President, how do we arrive at the true meaning of all these provisions? How will those gentlemen who claim the right to hold slaves in the States under the Constitution get at that right, guarantied to them, as they say, by the Constitution? Where is it in the Constitution? It certainly is not there. But the moment we open the volume of our political history, the moment we read the lessons of our own legislation cotemporaneous with and springing out of the Constitution, we at once get light on all these three branches. What is it? You find in relation to the first branch that, when Representatives were apportioned by the first Congress after a census was taken, the apportionment was made by counting amongst these "three fifths of all other persons"—slaves. They apportioned them in that mode, and have done so ever since. This gives us light as to what is meant by "three fifths of all other persons."

Again, when we come to the clause in regard to the migration or importation of certain persons, what do we learn? We learn that Congress, as soon as 1808 arrived, prohibited absolutely and everywhere the importation of slaves. That was the thing which the Constitution meant they should not do until 1808. They passed a law immediately before that year, to come into effect in 1808; but they did not do it until that time in relation to the country at large. Why not? Read the clause of the Constitution providing that the migration and importations of persons whom the States existing may think proper to admit, shall not be prohibited until 1808. We see from the light of that history, from the effect of that legislation, what these words meant. The "persons" there mentioned, whose migration was not to be prohibited, were slaves.

Again, if you go to the clause which says, that persons bound to service by the laws of one State, and who escape into another State, shall not by any law therein be released from that service, we should not know anything about what that meant; but we find as early as 1793 a law of Congress to carry that provision into effect, and under that law *slaves* were reclaimed. That, then, was the thing intended, and from it we obtain light.

Mr. BUTLER. They did not use the word "slaves."

Mr. COLLAMER. I do not know that they used the word "slaves;" but, if we look at the history of it and its effect, we find that it was to recapture slaves, and the illustrations of history show that is exactly what they understood it to mean.

I do not wish to enter into a controversy with those who say that this cotemporaneous construction is a clear view of what the Constitution meant—I think it is. I do not think it leaves any doubt. The meaning of the three provisions which I have mentioned is, in my opinion, illustrated by this cotemporaneous, practical construction, given to them at that time and continued to this day. I think there is no doubt about the meaning of them; but, I say it requires that cotemporaneous construction and needs that light in order to settle the question.

It is true, then, that practical, cotemporaneous construction is of very great importance, and especially in regard to the construction of the Constitution in relation to slavery. It would be well, therefore, to be acquainted with it when we undertake to legislate or talk about the powers of Congress over the subject.

Now I propose to show and insist, though not at great length, that, by the practical, cotemporaneous construction of the Constitution, Congress has power over slavery in the Territories, without State limits. Congress has never submitted the question of freedom or slavery to the people of the Territories in any form, to be there operated upon, while they were Territories. The people of a Territory in the forming of a State government must, of course, have the power to form their State constitution like any other State in the Union, as they please, so that it be republican in form, in order to be on an equality with other States. This is quite obvious. It needs no argument. That is not what I am talking about. I am speaking as to the prohibition, or the existence, or regulation of slavery within a Territory while it remains a Territory. I say Congress has never, until now, permitted that question to be agitated, or discussed, or regulated in the Territories themselves; and therefore I insist that the present attempt is a new experiment, and the very fact that it is a new experiment is to me an almost insuperable objection to it.

In the next place, I think it appears, from the history of legislation and the exercise of power on the subject of slavery within the Territories by the General Government, that Congress has regulated it in this way: Where slavery did not exist to any considerable or appreciable extent, Congress, by general or particular laws, has in those Territories prohibited it from time to time; and in those Territories where slavery was existing, and where it was found to exist, Congress in legislating for them did not do anything that would justify us in saying that they repudiated the exercise of power; but the institution being there, and being used by the people who had gone there, and this being a fair evidence of its adaptiveness to their use, Congress have suffered it to remain, making various provisions for its regulation.

I think that is the lesson which we derive from our legislation. Congress did exercise power over and in relation to the subject from the origin of the Constitution. From this I conclude they had the power. It is shown by the cotemporaneous exposition of the Constitution, and by the action of Congress ever since. Whatever new views of the Constitution may be gotten up now, I care not how ingenious and plausible they may be, if they in effect so construe the power of Congress over the Territories, or derive it from such sources as to eviscerate it and deprive Congress of the possession of this power which has been so often exercised, all I can say is, that it is entirely new, and, therefore, unfounded, being inconsistent with the lessons of experience.

It is hardly necessary, in order to show what I have been thus stating in general terms, to go very carefully into particulars in relation to the northern part of the United States. Before the Constitution was adopted, we all know that there was an ordinance extending over all the territory northwest of the Ohio river, prohibiting slavery. We are told by the President, in his annual message, that when the Constitution of the United States was adopted it superseded and repealed the provisions of that ordinance. He deduces that conclusion in this way: Inasmuch as the Constitution gave power to Congress to admit new States on the same footing with the original States, if that ordinance contained anything forbidding slavery, it was inconsistent with that provision, and therefore was superseded and repealed by it. I do not agree to that sort of constitutional law at all; but that is what we are informed by the President. But suppose, for the sake of the argument, we treat the matter in that light. Then, I will call the attention of gentlemen to the history of legislation in regard to the Northwest Territory, though it has been so well done by the Senator from Iowa, [Mr. HARLAN,] that it is not necessary for me to do so.

In the admission of Ohio as a State, Congress declared that they should form their constitution consistently with the ordinance. In forming the Territories of Indiana, Illinois, Michigan, and Wisconsin, included within the original Northwest Territory, in every instance the legislation of Congress expressly reënacted the whole ordinance, and spread it over these Territories from time to time, step by step. As fast as Territories were formed, just so fast the principle of prohibition kept on, *pari passu*. It went over the Mississippi, and reached Minnesota and Iowa, and crossed the Rocky Mountains to Oregon. In all these instances the same legislation—prohibition of slavery where it did not exist—was proceeded with by Congress. It is not necessary to particularize these acts any further. But let us go South, and see how it stands there.

Mr. President, there is perhaps no better settled principle of law than that the power to regulate includes the power to control. When power is granted to regulate a subject, it always includes the exercise of full discretion by the body which possesses the power. For this reason it has been held that the power to regulate commerce, conferred upon Congress by the Constitution, includes the power to lay a perpetual embargo. The embargo which was laid during our difficulties with England preceding the last war, had no limitation. In that case the question arose; and our courts decided that the power to regulate commerce included the power entirely to prohibit it, without limitation of time. The power conferred by the Constitution to regulate trade with the Indian tribes is a power to prohibit trade with those Indian tribes; and it has been exercised very often. The same principle has been frequently decided by the Supreme Court of the United States in many different forms, where the application of the principle has arisen.

I desire now to speak in relation to the exercise of power by the Congress of the United States over the subject of slavery in the Southern Territories. I wish to call attention to the action in those cases where slavery existed at the time when the territorial government was extended over the Territories. The first to which I refer is the case of the Territory of Tennessee. In the conveyance by North Carolina to the United States of the Territory now composing the State of Tennessee, the authority of the United States was limited and controlled so as to prevent the prohibition

or abolition of slavery. In the case alluded to by the Senator from Georgia, [Mr. Toombs,] of the Mississippi Territory, in 1798, a somewhat similar state of things existed. That was a region of country over which Georgia had some claim. She had made grants of land there—the celebrated Yazoo grant among the number. Her inhabitants had settled there. A law was passed by Congress in 1798, for the appointment of commissioners to settle with Georgia as to her claims with the United States over this Territory; and in the same act provision was made for the organization of a territorial government. The commissioners went on and made the arrangement. Georgia quit-claimed to the United States all her rights, and inserted in her deed of cession a clause that the United States should not abolish slavery in the Territory—the same provision which was made in the North Carolina deed of cession. This was done after the act of Congress was passed; but the existence of slavery in the Territory was well-known. Part of it came from Florida, also a slave-holding region.

Now let us see whether or not the act of 1798 in regard to the Mississippi Territory adopted the so-called principle of non-intervention. Recollect, sir, that at that time Congress had under the Constitution no power to prohibit the migration of such persons as the then existing States might think proper to admit until 1808. But in that law of 1798 there was an express provision prohibiting the importation of slaves by the inhabitants of the Territory. They were composed of settlers from Georgia, under the grants of that State and the old inhabitants of Florida, a portion of which came to us from Great Britain under the treaty of 1783. These people were there with their slaves. The people, when a part of the Territory was under the jurisdiction of Georgia, had the same power to import slaves which the remainder of Georgia possessed. The moment the cession was made, however, those people were deprived of that power by an act of Congress passed as early as 1798.

I come, now, to the case of Louisiana. In 1803 we acquired Louisiana from France; and in 1804 the first legislation of Congress was enacted in regard to it, constituting it into a Territory, called Orleans Territory. This was before the date of the operation of the provision of the Constitution allowing Congress to prevent the migration of certain persons into the existing States; but in the act of 1804 we find three leading provisions on the subject of slavery, regulating, and thereby exercising power over it, in the Territory. In the first place, Congress prohibited the bringing of slaves into that Territory from any place, unless they came with families as settlers. In the next place, Congress prohibited the importation of slaves into that Territory from beyond the limits of the United States. The third feature in that act, to which any one who reads it cannot but be particularly attracted, is, that no slaves should be taken there with settlers as members of families, or in any other way, if they had been imported into the United States since 1798. It was declared that slaves brought in in violation of either of these provisions should be free, and that those taking them into the Territory should be subjected to heavy penalties. At first, on looking at the act, I did not see why Congress fixed the date of 1798; but, on a little reflection, I perceived very well what the object was. Congress, in the Territories where they had power, had prohibited the importation of slaves. It was done in 1798, in the Mississippi Territory, as before stated. Thus Congress had expressed their views in regard to the subject. The States were at liberty to do as they pleased up to 1808; but in 1804, in legislating for the Territory of Orleans, Congress expressly said: "We told you, as early as 1798, that where we had power no more slaves should be imported from abroad. Now, if you have imported slaves into your States since that time, you shall not take them into this Territory, over which we have jurisdiction."

This was the legislation of Congress, and can any man of candor tell me that it was non-intervention? It certainly is not. It is the exercise of full power over the subject by the enactment of practical and important legislation in regard to slavery in the Territories of the United States where that institution existed. From this legislation I deduce this conclusion—that Congress claimed to have, and did exercise, full power to make provision on the subject of slavery, where slavery existed at the time when Congress legislated in regard to them. Congress did not think proper to prohibit it in those cases, but they exercised complete jurisdiction over the subject by regulating it. In reference to those portions of the country where there were no slaves, Congress, in the exercise of its power, dominion and sovereignty over territory without the limits of any particular State, legislated on the subject of slavery from time to time as, in their discretion, they thought proper; that is, by utterly prohibiting it.

This system of legislation continued uninterruptedly for many years. The Missouri compromise of 1820 was a part and parcel of the same system. There was much agitation on the subject at that time; but finally the difficulty was settled by admitting Missouri as a slaveholding State, and declaring that, in all the territory north and west of it, above the line of 36° 30', where slavery did not in fact exist—in a region which was then a wilderness (where Kansas and Nebraska are now situated)—there should be no slavery. This was the exercise of precisely the same power on which I have been commenting. It was in the repeal of this compromise in 1854, and permitting the people of Kansas to establish slavery therein while it remained a Territory, and so preparing the way for a slave State constitution, that the great wrong to the free States and cause of freedom consists.

By the exercise of this course of legislation, from time to time, things went on quietly and peacefully until 1854. Most of the Territories thus formed by Congress have been admitted into the Union as States, without any trouble; they have made their State constitutions as they have thought proper, always, however, in conformity to their territorial condition as to slavery, and Congress has received them into the Union. There has

always been peace; there has never been any trouble in regard to these Territories where Congress prohibited slavery. When they came to form their State constitutions, there was never any trouble or distress as to the extent of liberty which they were allowed. In those Territories where Congress found slavery existing and permitted it to continue, and regulated it, there was no trouble whatever when they came to make their constitutions, resulting from the previous exercise of power by Congress over this subject. It is indeed true, as we should expect, that the State constitutions have always been for freedom or slavery, as the condition of the Territory prepared it for.

Now, however, in modern times, there are *new views of the Constitution.* I have not the time, if I had the physical ability, to reproduce them all here, and show that they are new. The very fact that they are broached at this late day for the first time is, in my judgment, enough to show their baselessness. Especially is this the case when a doctrine is broached which, carried to its legitimate result, declares fifty years of unquestioned legislation by Congress to be unconstitutional and void. It must be wrong, because you thereby undertake to obliterate and to quench all that light which is so important to us, as I have already remarked, in construing the Constitution on this great topic. I have observed in the Kansas-Nebraska law, amongst other features which it seems to me are new views on the Constitution, a provision for the extension of the Constitution *by statute* of the United States over the Territory of Kansas. What, sir, extend the Constitution of the United States over a Territory by an act of Congress! What an anomaly! I was surprised when I saw it; and I have carefully looked over every territorial act passed by Congress since the foundation of the Government, and I have been unable to find in any one of them, previous to 1850, such a provision. I do not know to what it is intended to lead, but I think it my duty to call attention to its strangeness and novelty. It seems to me that it must have some ulterior purpose which I cannot discover. It may perhaps be used hereafter as a precedent to sustain some other new doctrine, and a principle may be extracted from it which those who adopted it did not think of, as has been done in many cases, and especially in this very law in regard to the compromise of 1850.

Has Congress power to spread its authority over a country not within its geographical jurisdiction? Was the Constitution ever adopted by law, which must necessarily grow out of the Constitution itself? Can you extend the Constitution over a Territory by an act of Congress? If you can, you have but to repeal your act of Congress, and your Constitution does not extend there. Sir, our jurisdiction over country is never acquired by an act of legislation; it must be preëxisting. Legislation can extend only over country which you already have within your jurisdiction. Congress has no power over territory within its jurisdiction except that which the Constitution confers. All their power is derived from the Constitution—but to what country? Of course to country within their jurisdiction, and none other.

If we are to adopt this doctrine, there is no Constitution of the United States now in operation in Missouri, or Ohio, or Michigan. They never adopted the Constitution of the United States. The old States adopted it in convention. If you call the State which I have the honor, in part, to represent, a new State, it did adopt the Constitution. We assembled, as the old States did, in convention, and adopted the Constitution of the United States, and so, I believe, did Kentucky, which was admitted into the Union in the same year; but in regard to all that territory beyond the Mississippi and north of the Ohio, there is not one State formed out of it which ever adopted the United States Constitution by a convention, and no act of a State Legislature could do it; and I undertake to say there is not one of them over which it has been spread by act of Congress. Then how is our Constitution operative there? I will tell you.

Mr. President, I would always much rather cite higher authority than my own *ipse dixit* on any subject, and especially when that authority lies at my hand. In this case I think there is conclusive authority to which I can refer. We know that in an early period of our history the power of annexing foreign territory to the Union was much agitated. We know that when Louisiana was acquired, Mr. Jefferson was of the opinion that it was beyond the power of the Government; and he proposed an amendment of the Constitution for the purpose of securing that which was then regarded as a very great and necessary acquisition. Mr. Jefferson was overruled, however. Congress did not agree with him in opinion; the nation did not so think. Although I have heard some reasons, which I think exceedingly lame, given in regard to this point, I believe we now have light enough, derived from that source of legal intelligence, the Supreme Court of the United States. If you will examine the decision in Canter's case, you will find the whole doctrine fully stated.

Florida was acquired by treaty in the same manner as Louisiana, and our laws—not our Constitution—were extended over it by act of Congress. Goods were seized in Florida, under our revenue laws, which brought the question before the Supreme Court. On that occasion the counsel, in the extremity of their defenses, were driven to insist, among other things, that the acquisition of Florida was beyond the constitutional power of the Government; and they cited Mr. Jefferson's views in relation to the Louisiana case to show that there was no such power in the Government, and that therefore the United States had no such jurisdiction over Florida, and that, hence, the act of Congress extending our laws over that territory was inoperative and void.

I speak of this case from recollection, and I may not, perhaps, do justice to all the points in that case, but one is sufficient for my present purpose. Chief Justice Marshall, in delivering the opinion of the court, stated in substance, that the power of acquiring foreign territory was an incident of sovereignty, and that the power to make

war implies the right of conquest. When a Government comes to make a treaty after a war, it may do so on either of two well-known principles; that of the *uti possidetis* or the *status quo ante bellum*. If on the former principle, provision is made that each nation shall hold and possess what it then has. That is the exercise of the treaty-making power, and hence the court said the acquisition of foreign territory was within the treaty-making power of Government, *ex necessitate rei*, arising from sovereignty. When in the exercise of that power foreign territory is annexed to the United States—which is a mere political question—Congress acquired jurisdiction over it. The moment foreign territory is annexed to the United States, it is within the jurisdiction of Congress, and the Constitution extends over it. The Constitution is the creator of that very government which has brought it within its jurisdiction, and the law-making power spreads over it by its being within its jurisdiction; and it is the spreading of that Constitution over the territory by its acquisition which gives Congress the power to legislate for it.

This is the way in which the Constitution exists in Florida, Louisiana, Arkansas, Missouri, Iowa, Minnesota, California, and Oregon—not by an act of Congress, for that would be legislating over a country in regard to which you could not legislate; which would itself be a paradox.

I say, then, that when the report of the majority of the Committee on Territories undertakes to derive the power of Congress, in relation to the Territories, entirely from the authority granted by the Constitution to admit new States, and treats it as an incident of that power for the purpose of breeding the Territory into a State, and admitting it into the Union, it undertakes to derive it from quite too limited a source. I acknowledge that the doctrine is a new one. It is a *new view of the Constitution;* and, if that fact recommends it, I am free to admit that it is well recommended; but it does not commend itself to my acceptance. I object to it, in the first place, because it eviscerates the power of Congress to do those very acts of legislation which they have done for half a century without question.

The majority report says, in substance, that we cannot legislate in regard to the subject of slavery in the Territories, because it is not necessary to breed them as States. If the power is derived from that source, how are we to regard the long line of precedents which I have enumerated? Such a doctrine would utterly deprive Congress of any power to legislate for a Territory until it was large enough to form a State. I think I have heard, during various Administrations of this Government, the suggestion made that we ought to acquire a naval station in the Mediterranean, perhaps at Port Mahon, or some other place, and also in the West Indies. If such a station should be acquired, what power could Congress have over it? We surely should not propose to make it into a State; but, according to this new reading of the Constitution, we could not legislate for it at all for that very reason. This ground will not answer; it is quite too narrow. There is another branch of the Constitution which gives Congress power to legislate over forts, lighthouses, and arsenals; but it is expressly confined to those cases where the title to the sites is acquired from the States; it does not relate to foreign territory.

I deduce, from the provisions of the Constitution and from the legislation to which I have referred, that Congress has sovereignty over all territory within the jurisdiction and limits of the United States, not included within any particular State. I say there are no limitations to that sovereignty, except what are found in the Constitution itself. I know this is not a Government of unlimited powers. It cannot prevent trial by jury; it cannot abolish the *habeas corpus;* it cannot do a variety of things which are forbidden to it. For this reason; if we acquire a territory from a foreign Government, which is an absolute or limited monarchy, we have not the same powers over it which that Government possessed, but we are limited by the Constitution. I say, that the legislation which I have cited shows that Congress have exercised this power

Mr. GEYER. I wish to understand the Senator's proposition. Is it that Congress have sovereignty over the territory of the United States?

Mr. COLLAMER. I say the jurisdiction of the United States and the power of Congress over a Territory are identical. When I say the sovereignty is in Congress, I mean the United States, including the whole powers of Government, executive, legislative, and judicial. I mean that this organized Government, as created by the Constitution, has sovereignty over the Territories.

Mr. GEYER. Do I understand the honorable Senator as saying that all the sovereignty of the United States has been delegated to some one of the departments of the Government?

Mr. COLLAMER. No, sir, I do not say that it is delegated to any one department; but I say that the Government of the United States, like any other Government where its functions are divided into two or three different departments, makes a unit which may be regarded as a whole. It is a whole government taken together, with the combined powers which its different functionaries possess. Taken in the aggregate, they make the United States Government, and that is the Government which I say has sovereignty over the Territory beyond the limits of any particular State; and I say further, that this sovereignty is to be exercised by the Congress of the United States as the legislative department of the Government. I contend that, in legislating for the Territories, the Government of the United States never parts with this sovereignty. The territorial governments are mere municipal corporations entirely within the control of Congress. I do not wish here to cite authorities which I have cited in the minority report: I have there referred to the opinion of Attorney General Butler, in the case of Arkansas, where he stated that Congress had power to repeal, or alter, or modify the laws which a territorial government might make. This was said by him in relation to a Territory in regard to which there had been no reservation in the organic act of power to Congress to revise

its laws. The power arises from the existence of sovereignty over the Territories.

Why, sir, what is that which gentlemen call the organic law of the Territories? It is their constitution, and so is every charter which is granted to any corporation its constitution. Has not the power which makes the constitution the right to alter, change, or abolish it, if it pleases? Congress made a constitution for this Territory, and that same constitution-making power has the right to limit, alter, control, or modify it. Congress takes care of the Territory, and it is the duty of Congress to look after its interests. I view the Territory of Kansas in the same light as all other Territories, and I say that the power of this Government over it is as unlimited as it was before the organic act was passed. We may control, limit, or amend that act as we please. All the arguments which ingenious gentlemen may present as to the doctrine of estoppel have nothing to do with the question of the power of Congress, in my estimation. We are told that, because the Legislature of the Territory has done certain things, we are estopped from touching its proceedings. We are told that, because the Governor has done particular acts, we are estopped from inquiring into them. We are told that we are estopped from inquiring into the fraud, violence, and usurpation committed in the Territory of Kansas. I deny it. I say that doctrine has nothing to do with our power. But, sir, the more gentlemen talk about the doctrine of estoppel, and the more proof they bring forward to show that the people of the Territory cannot have justice anywhere else, the more imperative is the demand on us, and the greater the occasion for our interference.

I desire now to call attention to the new experiment which was set on foot by the Kansas-Nebraska act. Let us inquire wherein the newness of that experiment consisted. In what was it? It was not merely in that provision of the organic law which declared the Missouri compromise inoperative and void. It appears to me that, in the organic act and in the report of the majority, there is a constant confounding of the power to prohibit slavery in a Territory, and the power of the people, when they come to form a State constitution, to provide for freedom or slavery as they please. These are two distinct propositions. If the only purpose was to allow the people, when they come to form a State, to have freedom or slavery as they choose, I say that was sufficiently provided for in the first section of the act in relation to Kansas. The first eighteen sections of the organic law relate to Nebraska, and that portion of it which refers to Kansas commences with the nineteenth section. In that section it was provided, "when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery as their constitution may prescribe at the time of their admission." This was an express grant of power by itself, and nothing more was needed if it was intended to give the people full liberty in forming their State constitution. If it could be said that the Missouri compromise, which forbade the existence of slavery in territory north of 36° 30', could be so construed as to prevent the people from forming a constitution admitting slavery if they choose—which I deny—this was sufficient to accomplish that object. It was the last law on the subject, and any previously existing law inconsistent with it was thereby *pro tanto* repealed. This was all that was necessary to enable the people to form a State constitution providing as they pleased in regard to slavery. The provision contained in the organic act in regard to the repeal of the Missouri compromise was perfectly useless for any purpose whatever connected with the formation of a State constitution, and yet it is constantly talked about as if it was necessary to enable the people to form their State constitution as they pleased. It was totally useless for such a purpose. Let me read the clause:

"That the Constitution, and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

There are a great many words here employed, saying almost the same thing over and over again, and containing in the body of the enactment the reasons for it, which reasons are entirely inapplicable, and can have no force in regard to the law one way or the other. What does it all mean? If it means anything, and I take it that it does, it must mean, as I suppose it will be insisted to mean, that while this was a Territory, anterior to and independent of the formation of a State constitution, the people should, in the mean time, have the power to adopt or reject slavery as they pleased. This is the fair meaning and import of the provision. If it does not mean this there is some duplicity involved in it, calculated, perhaps intended, to mislead. Certain I am, sir, that the very honorable and distinguished Senator from Michigan [Mr. CASS] has held that slavery cannot go into a Territory without a local law being passed to authorize its existence. I appeal to the Senator if that is not so.

Mr. CASS. I believe it. It is my opinion at this day.

Mr. COLLAMER. If the gentleman says that, I will undertake to prove to him, from some laws which exist in Kansas, that if a man dared repeat that sentiment in that country he might be condemned to hard labor as a felon.

Mr. CASS. It is a question which the Supreme Court can decide.

Mr. COLLAMER. I do not know how it will be decided. The Senator now says that he understands it as I read it, and he agrees that slavery cannot exist there until a law shall be passed by

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the Legislature to introduce it. Well, sir, a law has been passed by what is claimed to be the Legislature, that if any man shall dare to say that people have not a right to hold slaves there in the absence of law, he shall be liable to imprisonment for two years and punishment at hard labor.

What, sir, is the experiment of the Kansas-Nebraska act, of which I have spoken? It is the experiment, instead of leaving slavery prohibited by the Missouri compromise, of leaving the question to the people of the Territory to discuss, to agitate, to legislate about it from time to time, and to make elections dependent on the question of slavery in the Territory, while remaining a Territory. I am sensible that there are men in some parts of the United States who say that this is not the meaning, but I cannot stop to argue the point. This is clearly the provision, taking the fair import of the language. The report of the majority of the committee so regards it. That report asserts that the people of the Territory cannot exercise any powers, except those which they derive through their organic act. Well, sir, the organic act is the creature of Congress. The report says that Congress can only legislate for Territories in order to breed them up for States, but not on slavery, as that is not necessary for that purpose. Then, I should like to know how Congress obtained power to give these people authority to legislate on the subject of slavery. Can Congress grant a legislative power it does not possess? It is not for me to answer.

Mr. President, I object to this experiment in the first place, because it is an experiment. It is a departure from all the lessons of our political history. Indeed, I believe the Senator from Michigan rather congratulated the Senate at the time of the passage of the bill, that they had adopted a new principle, and I presume he views it so. I do not wish to give it a name. Some call it squatter sovereignty, and some popular sovereignty; but it was understood to be a new experiment altogether. I object to it because it is a new experiment, and I think the experience under it has had no tendency to convince any candid man that the experiment is doing the least good. It was a new course, struck out for the first time; and what recommended it least to me was, that *Congress* had heretofore legislated in regard to slavery in all the Territories, and not left it to the Territory. It appeared, however, that there were quarrels in Congress in regard to the subject. New views and old views were presented, so that Congress had some difficulty in agreeing. What then did they do? They repealed the compromise which prohibited slavery, and turned the whole question to what is sometimes called an inchoate state—to the Territory—to the municipal corporation on the plains of the Missouri. Congress repealed the law for liberty there, of thirty years' standing, and thus got rid of this troublesome question by turning it over to that people. That did not commend itself much to me.

I object to it for another reason, because I consider it a breach of two compromises. I know that the word "compromise" is now not unfrequently used in a bad sense; but I do not mean to use it in any such sense. I am not aware of any country in the world which has more need of the possession of such a power. Sir, we have great political problems in our hands yet to be solved in this Government, and it may need a great deal of conciliation, of forbearance, and of compromise, if you please, to dispose of them. I shall be sorry to see the word rejected from our political vocabulary.

Sir, I come from a part of the United States where the people say, "You must understand, in the first place, that you are to sustain this Union at all events." They also tell me that the success of the great political experiment of self-government, for the great cause of humanity for the world and for all time, is now to be solved in this country. What is it? Whether mankind is competent to self-government. How can we expect to succeed with it? Certainly by enlightening and elevating, in every condition and in every respect, those who are to carry out this experiment—the voters of the land. With this great mission in our hands, the body of our voters must be a people better fed, better housed, better clothed, better instructed, and elevated in their social condition, above any other people on this earth. We are "a peculiar people, zealous of good works."

We must do this with our laboring community, because that laboring community constitutes the great mass of our voters, and the policy of the Government must be shaped with a view to place them in the elevated position to which I have alluded. There is a large part, a very respectable part, claiming to be an equal part—practically in this Government they are a great deal more than equal—where the laborers are not placed in this position—slaves. The question is, how can you shape the policy of the Government to elevate the condition of those laborers and enlighten them, without injuring the safety of the people among whom they live. It is a troublesome problem. Gentlemen may scout it as involving apparent inconsistencies, but it is a great problem for us. It needs the assistance of all sides in its solution. It reminds me of the good old lady who, somewhat advanced in age, wished to have a Bible so small that she could carry it to church in her pocket. And yet it must have the largest kind of print, because she could not see very well. I do not perceive how it is possible to get the largest kind of print into the smallest sized Bible; and it is difficult for me to see how we are to solve the problem which I have stated, involving the inconsistencies to which I have alluded, and preserve the Union, and yet make no compromise.

Sir, I think the experiment of dissolving the Missouri compromise and the compromise of 1850, was a very mistaken one. Can any gentleman suppose that the people who sustained the action of Congress in adopting the compromise of 1850, expected that the action of 1854 would be claimed to result as a consequence from it? It is impossible. That compromise was based on the principle that everything was to remain *in statu quo*. The people said we will agree to the compromise of 1850, if that will settle the whole question of slavery in regard to the Territories. In

1854, however, it was contended that because in the Utah and New Mexico bills of 1850, it was provided that those Territories, when admitted as States, should come in with or without slavery, we were required to repeal the Missouri compromise which prohibited slavery, and not only to do that but to go further, and to invest the people of Kansas not merely with the power of forming a State constitution, but the power of legislating in regard to slavery, and admitting it while they should remain a Territory. In 1850 Mr. Clay said: "I never will vote, and no earthly power will ever make me vote, to spread slavery over territory where it does not exist." Yet by your legislation of 1854, you say, that in supporting the compromise of 1850, Mr. Clay announced a principle which repealed the Missouri compromise by which the liberty of which he spoke existed in the Territories. I need not dwell longer on this point.

The repeal of the Missouri compromise certainly was not necessary to secure freedom. If preserved, Kansas would have been settled without slaves, and such a people never have and never would form a State constitution allowing slavery. It was for this reason the slaveholders desired its repeal; and this repeal and granting power to admit slavery by the Territory while it remained such, is our matter of complaint.

When this experiment was put on foot what must have been expected as likely to happen under it? It invited all people to go and settle in the Territory, and to fix, by the power of numbers, the question of slavery. Such exertions were invited by the law. I shall not review the lengthy comments of the report of the majority upon the operations of the emigrant aid society. I consider that the scolding about the emigrant aid society, is for the purpose of diverting public attention from the violence and the usurpation which have taken place in Kansas, by Missouri invasion. I say that when this law was passed, and the experiment was set on foot, every man who desired to go to Kansas for the purpose of making it a free State, had not only the right, but it was his duty to go there, if his circumstances would permit—if his conscience convinced him that free institutions were best for that Territory. So with a man in the slaveholding States: if he desired to make Kansas a slave State, it was his privilege and his duty, his moral duty, if you please, to go there for that purpose. Can it be said that when a man has a legal right to do a thing, and a moral right to do it, and desires to do it, it is morally wrong for any one to help him to do it? It is a paradox. Every man had an undoubted right to go there and endeavor to take part in the action of the people in settling this question. I have before me extracts from newspapers in South Carolina, Mississippi, and elsewhere, showing that efforts are making in the southern States, and have been attempted in some of their Legislatures, to induce people to go there, and going much further than the emigrant aid society. What did that society do? It never furnished any people with arms or rifles. The Senator from South Carolina [Mr. BUTLER] I know intimated, if he did not directly assert, that they did. I spoke to him afterwards on the subject. I told him it was not true that the society ever sent any arms to Kansas. He said that people told him so, and I suppose he heard it from sources in which he placed confidence. Probably he understands the matter better now. I say there never was a Sharpe's rifle in the Territory until months after the election for the Legislature.

Mr. BUTLER. I know the honorable Senator would not wish anything to go into the debates which would be a perversion of history.

Mr. COLLAMER. Certainly not.

Mr. BUTLER. I cannot undertake to particularize the time when Sharpe's rifles were sent to Kansas; but, it has been my opinion, that there were what lawyers call "latent ambiguities" long before there was an open development of them. I saw a statement in a newspaper—I do not know how truly—that a box marked "carpenters' tools" was sent out, and upon being opened in St. Louis it was found to be filled with Sharpe's rifles.

Mr. COLLAMER. But that was since the time of which I have been speaking, and the emigrant aid society had nothing to do with it. I confine myself to the action of that society, as stated in the majority report. That report states exactly what the society did. All that they did, they did openly and publicly. The majority report says they advised people by their regulations, that those who wished to go to Kansas, and to settle there, would be aided by the society, because by going in large numbers they could obtain tickets much cheaper. They also proposed to buy lands, and build school-houses and mills, and boarding-houses, for the accommodation of the new settlements. The report does not state anything more, and they did nothing more. Was there anything unlawful in this? I know they were induced to do it with the view that settlers, when there, should vote for a free State; but I do not know that they were catechised about it. I have before me a document headed "articles of agreement between Jesse De Bruhl, of Columbia, South Carolina, of the one part, and the undersigned persons, desirous to emigrate, under his care and direction, to the Territory of Kansas, of the other part," in which it is provided:

"And the undersigned persons, desiring to emigrate in company with the said Jesse De Bruhl, and under his care, agree to place themselves under his command as their leader and captain, and strictly to obey him as such; and to remain under his direction and command for twelve months from the day of leaving Columbia, if, from the fund above-mentioned, he should be able to provide for their subsistence so long, or otherwise for such length of time as he may be able to provide for their subsistence. And they agree, and solemnly bind themselves, under his command, to remain in such part of the Territory of Kansas as he may designate, and never to absent themselves to a greater distance from him than will allow them to be summoned by him, and to assemble in a body within twenty-four hours after he may issue his summons."

Mr. EVANS. Who is the commander alluded to?

Mr. COLLAMER. Mr. De Bruhl.

Mr EVANS. Nobody ever joined him at all.

Mr. COLLAMER. There was an advertise-

ment inviting people to join him. I do not know whether they have done it or not. I find in the Charleston (South Carolina) News of the 27th March, this paragraph:

"The Kansas Association of Charleston forwarded its second corps of emigrants by railroad this morning, at seven o'clock. It is composed of a fine body of spirited and active young men, numbering twenty-eight, who go with a firm purpose to advance by industry their private fortunes, and to maintain by their manliness as citizens, law and order, and southern rights, in Kansas. They proceed under the business charge of Mr. F. G. Palmer, a practical civil engineer. They embrace a number of mechanics and artisans. Not a doubt can be entertained that they will well represent South Carolina. Their equipment has cost the association a considerable amount, a portion of which has yet to be met by voluntary contributions."

Mr. EVANS. That had nothing to do with De Bruhl's proposal.

Mr. COLLAMER. I am aware of that; I was reading from another publication.

Mr. BUTLER. Let us be right as we go on. I am sure the Senator from Vermont is disposed to be right.

Mr. COLLAMER. Certainly.

Mr. BUTLER. Mr. De Bruhl did make an advertisement of the kind to which the Senator alludes, but advertisement is not equal to performance. The young gentlemen who have gone from South Carolina did not, as my colleague has well suggested, go under De Bruhl's advertisement, but on their own hook. They went, not with a uniform weapon, Sharpe's rifles, but each one taking his own implements. Some of the wealthiest families are going there to buy land.

Mr. COLLAMER. And they will turn free-State men when they get there.

Mr. BUTLER. I will make this prediction, that, if one of these gentlemen settles there with twenty Free-Soilers around him, in five years they will be exactly the opposite way.

Mr. COLLAMER. You do not mean that there is any dishonesty in their views?

Mr. BUTLER. No, sir; but they would invite you to their houses, and you would be on the best terms in the world.

Mr. COLLAMER. No doubt of it, on as good terms as we are here with each other. I read from Mr. De Bruhl's advertisement which the gentlemen say was never carried into effect; but I also read from the Charleston News, that "The Kansas association of Charleston forwarded its second corps of emigrants," &c. That shows that there is an association existing there. It shows that they have sent one battalion after another as they can get them ready. Who has any objection to it? I do not mention it as being in the least degree reprehensible, or as calling for any censure in the world. No doubt these emigrants who go there go for the purpose of settling, and are high-minded men. I did not cite the fact with the view of censuring anybody, but merely to show that, in the South as well as in the North, persons were assisted to go to Kansas—for what purpose? To advance the one side or the other of this great question. It is something that commends itself to the acceptance of everybody in the United States. They have done it and they will do it. Lectures about the impropriety of helping a man to do that which he has a moral right to do, are entirely misplaced, and will never amount to anything.

Again: The operations of the emigrant aid society have nothing whatever to do with the question before Congress. That question is, whether the settlers and inhabitants have been injured and abused in such a manner as to call for redress at our hands. If so, it is our duty, as we have the power, to correct it. Suppose it should turn out that some of the inhabitants have been aided there by a society, even, as some think, improperly, are they not settlers there? Does the fact of their having been aided to go there by somebody whose purposes you do not like, justify violence upon them by people from Missouri? Not at all. The President of the United States says, expressly, that, though he censures the acts of the emigrant aid society, they formed no justifications for the proceedings taken against them. Then why talk about it? The subject of discussion is the proceedings of the people of Missouri in relation to Kansas, and to that I now propose to address myself.

It is insisted by the honorable Senator from Illinois, [Mr. DOUGLAS,] chairman of the Committee on Territories, in his speech, that in point of fact, the invasion which was made in the Territory of Kansas at the period of the election in March, 1855, was confined to seven representative districts, entitled to nine members of the Legislative Assembly. Because I stated in my minority report, as I say now, that I think the invasion extended to all, or very nearly all of the Territory, he called on me for some sort of proof of the assertion. Sir, I never had any power to send for persons and papers, nor had the committee. Gentlemen who make reports, must make them on the best information which they have. There are many things stated in the majority report as matters of fact, of which I have never seen any evidence, but suppose they were so stated because the majority of the committee, from the information which they had, deemed them to be facts. On my information, I have made the statements contained in the minority report.

The Senator from Illinois admits that there was an invasion in seven districts. It seems to me that that concession is an end to the question. The Legislative Assembly was only entitled to twenty-six members in all. Is it possible that any gentleman is prepared to say that a Legislature may admit men without any title, who have been elected by force and violence, to the extent of more than one third of the whole number, provided a majority were legally elected? Mr. President, one third of a legislative body is a controlling power in any Legislature. There was an armed invasion of the Territory of Kansas on the 30th of March last; and it is admitted that the invaders, in seven districts, chose nine of the representatives by force and fraud. That being an acknowledged fact, and the Legislature having admitted those nine men—more than one third of the whole number—we are told it did not vitiate the whole proceeding! As I have said, the admission of such a number as that into this, or any other legislative body, is a controlling power. By their action in regard to this number,

they got the power to override the veto of the Governor. The law organizing the Territory reserved to the Governor a veto power for the security of the people; and, by admitting this number of men who, it is, in substance, acknowledged, were illegally elected, they entirely deprived him of all power.

It seems to me that the very granting of this fact is an end of the question. It is to be remembered that all the members elected by the invaders, even in the seven districts, were granted their seats, and this the Senator in no way censures. Now, who ever before heard of a burglar being defended on the ground that he did not take as many goods as is charged against him; and that, as he did not, he shall and ought to retain as his own the amount he did take. I do not mean to be understood, however, as in any measure taking back my statement that the invasion extended to the whole Territory. The Senator from Illinois has asked me to produce proof; and I am perfectly willing on this, as on all other occasions, to render a reason "for the faith that is in me," and to tell why I entertain and express this view. The proof of the extent of the violence, of course, rests in the proof of the violence itself. The proof of the extent of the violence consists in proving its existence. You cannot prove its extent independently of proving its existence. We cannot separate the two. There are proofs of violence; and those proofs show not merely that it existed, but that it extended through the whole Territory. I desire to call attention to some things, which make me think that it extended beyond the seven districts.

In the first place the invasion is a matter of history, which no man can rise here in his place and dispute. The Senator from Illinois does not dispute it. In the next place we must consider the object of the invasion. It was perfectly understood that men went into Kansas from Missouri in great numbers, into different parts of the Territory—for what purpose? Undoubtedly for the purpose of voting. They succeeded by force in voting, and then returned home.

I am not in the habit of thinking that bodies of men, holding respectable positions in society, ever assemble together in this country, in considerable numbers, for any great purpose, and publish falsehoods to the world. Let us see what was said on the ground in relation to this matter. If gentlemen will turn to the proceedings of the people of Kansas, whenever they did assemble, it will be found that they declared in all their public meetings what they considered to be the extent of the invasion. There was a meeting at Topeka, in September, held in pursuance of a call made by a meeting which took place at Lawrence in August. At the Topeka meeting it was declared:

"*Whereas*, the Constitution of the United States guaranties to the people of this Republic the right of assembling together in a peaceful manner for the common good, to 'establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity;' *and whereas*, the citizens of Kansas Territory were prevented from electing members of a Legislative Assembly, in pursuance of the proclamation of Governor Reeder, on the 30th of March last, by invading forces from foreign States coming into the Territory, and forcing upon the people a Legislature of non-residents and others, inimical to the interests of the people of Kansas Territory," &c.

The same thing was asserted in all their other meetings, and published to the world. Of what were these people complaining? They complained that persons from Missouri came over into their Territory, and elected, not a part of the Legislature, leaving the settlers to elect a majority—but that the whole Legislature, the entire body, was created by the invaders. I do not believe that this people, as a body, would publish to the world that which was a lie, and which they knew was a falsehood. Remember that their statement was made in the presence of the community where the transaction took place.

Again, the majority of the committee, in their report, say that they have not been able to obtain definite and satisfactory information in regard to it; "but from the most reliable sources of information accessible to your committee, including various papers, documents, and statements furnished us by Messrs. Whitfield and Reeder, claimants of the Delegate's seat in Congress for Kansas Territory, it would seem that the facts are substantially as follows." It must naturally be inferred from this, that the committee relied upon the statements of Mr. Reeder and Mr. Whitfield. Mr. Reeder's statements were made not merely to me and to the committee personally, but they have been reduced to writing and presented to the Committee of Elections in the House of Representatives. They are in print. In his printed statement he states particularly where the violence extended; he specifies the districts covering many more than the seven where the elections were contested. He expressly offers to prove everything that he alleges. If his statements are reliable—and it must be remembered that he obtained his information on the ground—they clearly show that the invasion extended to a large part of the Territory beyond the seven districts.

In the next place, why did people from Missouri go over into Kansas on that occasion? Does not the fact of their having gone there to interfere with the election show that they understood that, if the people of Kansas were let alone, they would choose a free-State Legislature? Certainly. If they did not think so, there was no occasion for their going over. Then they went there, and conducted that invasion for the purpose of making a Legislature that would be in favor of a slaveholding State. Why should they go there to elect a minority of the Legislature? What good would it do them to elect men in seven districts? Was that the business on which they went? Was that their errand? Clearly not. That surely was not the purpose with which they went. How, then, can any man say that these people stopped short of their purpose? Sir, the inhabitants then in the Territory had no power to stop them. Whether they were sent by emigrant aid societies or not, they were utterly defenseless. There was nothing to prevent the invaders from doing as they pleased. I say, they went for the purpose of forming a Legislature to suit them,

and we have no reason to doubt that they accomplished their purpose. This would be the natural inference; but I think there is direct proof of it. In a Missouri paper, printed directly on the border—"The Squatter Sovereign"—of the 1st of April, 1855, a few days after the election, there was this statement:

"INDEPENDENCE, *March* 31, 1855.

"Several hundred emigrants from Kansas have just entered our city. They were preceded by the Westport and Independence brass bands. They came in at the west side of the public square, and proceeded entirely around it, the bands cheering us with fine music, and the emigrants with good news. Immediately following the bands were about two hundred horsemen in regular order; following these were one hundred and fifty wagons, carriages, &c. They gave repeated cheers for Kansas and Missouri. They report that not an anti slavery man will be in the Legislature of Kansas. We have made a clean sweep."

These men went to Kansas for the purpose of making a slave-State Legislature. Nothing interfered with them to prevent their doing it. They did all that they wished to do. They came home declaring that they had made a "clean sweep." Now what right has any man to say that their action was confined to seven districts?

By the organic law of this Territory it was provided that the Secretary of the Territory should keep a record of all the executive proceedings, of the action and correspondence of the Governor, and should report it to the President once in six months—in January and July of each year. When the Committee on Territories undertook the investigation of this subject, application was made to the President for those papers. They had not then all been received, but such as had arrived were sent to the committee. Since that time others have been received which have been communicated by the President to the House of Representatives, and they are printed in the book before me. This is not a book got up for the occasion. It consists of minutes, records, made by the secretary of the Territory upon the spot, from time to time, of the Governor's action. Amongst these records is the Governor's proclamation, ordering the election of March 30, 1855. He proceeded in the first place to have a census of the Territory taken. There being no existing political divisions, it was his duty to divide the Territory into districts. He appointed persons to take the census which was returned to him in February. That census contained the returns of the number of inhabitants and of voters. The census was taken to enable him to district the Territory and make a distribution of members of the Legislature. The Legislative Assembly was by law to consist of twenty-six members, and the Council of thirteen members. On receiving the census returns, he proceeded to divide the Territory into council and representative districts, distributing representatives among them according to their numbers. He issued a proclamation setting forth the districts, describing the apportionment of the representatives, appointing judges to superintend the election, naming them. He provided in his proclamation that, if these judges neglected or refused to attend, the voters could appoint others. He provided the oath that they should take. It provided, among other things, that, if they did not know that a man who offered to vote was a resident of the Territory, they should ascertain that fact by his own oath. He prescribed the form of the returns; and further provided, that if any election was contested it must be done by filing a protest with the Governor within five days after the election.

I believe I have now stated the outline of the Governor's proclamation. We have before us, in the book to which I have alluded, the election returns which were made. We have his judgment upon those returns in each case. The Senator from Illinois seemed to suppose that those returns were made by the men appointed by the Governor to hold the election, and he deduced an argument from that fact. The fact is not so. In a large number of the districts—not merely in the seven, where there was a contest or protests—returns were made by other men than those whom the Governor appointed—by men whom the voters selected; and, therefore, no argument can be drawn from the returns having been made by judges appointed by the Governor. It will not be expected that in all the districts the exact condition of things can be shown, because the invaders came in armed, and the inhabitants were scattered, frightened, intimidated, thrust away, and they did not enter a protest in season. In consequence of this condition of things, in some cases beyond the seven districts where there was a contest or protest, it is manifest that the returns on their face showed fraud, and yet they were not set aside.

I desire to call attention to some of these returns, and I wish it to be understood that I speak of returns in districts never contested before the Governor or Legislature. The first thing which strikes the mind on looking at them is, that when the returns are compared with the census there is a great disparity in numbers, not only in the seven districts which were contested, but in other districts which were not contested.

The Senator from Illinois said the invasion was confined to the districts directly on the border, and did not extend into the interior, because the Missourians came back the same day. I know that one division of them came back on the same day; but not all of them. I will take the case of the fifth council district directly on the Missouri line. It was entitled to two councilors and four representatives—a large district for that region. According to the census taken in February, it contained four hundred and forty-two voters. From the returns, it appears that in that district eight hundred and fifty-five votes were cast. In February, the census showed four hundred and forty-two voters there; but in March there were eight hundred and fifty-five votes returned as cast.

Mr. FOOT. And that was not one of the seven districts.

Mr. COLLAMER. No, sir; it was not one of the seven districts which was contested. I will not say that there was no protest. I am informed, and verily believe—I will state it with all caution, and according to the chancery form—that there was a protest filed, but it was too late. The people were getting up a protest and securing testimony to support it; but the man who rode with it in

that new country to the seat of government arrived too late. He got there at one o'clock at night, instead of twelve o'clock—when the time had expired and the certificate had been given.

In the seventh council district, which was entitled to one councilor and two representatives, the census showed two hundred and forty-seven voters, and four hundred and eighty-six votes were returned as having been cast. The ninth council district had two hundred and eight voters, and four hundred and seventeen votes were cast.

In the tenth council district, according to the census, there were four hundred and eighty-six voters, and twelve hundred and six votes were returned as having been cast. It is true that the returns of some of the representative districts included within this council district were set aside, but the council returns were not set aside. I wish to call attention to what was said by the judges appointed by the Governor in that district. H. B. Corey, J. B. Ross, and J. Atkinson, were named in the Governor's proclamation as being judges of the tenth representative district, which was part of the tenth council district; and in regard to them I find this record in the executive minutes:

"Oaths of H. B. Corey, J. B. Ross, and J. Atkinson, judges, according to form prescribed. Return of same judges, stating that, having been sworn, they proceeded to open said election and received votes; but that a vast number of citizens from Missouri assembled on the ground for the purpose of illegal voting, who surrounded the window and obstructed the citizens of the Territory from depositing their votes, and caused many of the said legal voters to leave without voting; and that the said judges, in consequence of the determination of citizens of Missouri to vote, and no voters from said district voting, or offering to vote, they left the ground."

Thereupon, the Missourians went on, appointed their own judges, who made out the returns, and stated that two hundred and forty-two votes were cast.

Mr. PUGH. Was that election set aside?

Mr. COLLAMER. No, sir; it was not one of the seven districts where there was a contest and protest.

Mr. PUGH. I understood the Senator to say that the representative election was set aside.

Mr. COLLAMER. No, sir; the tenth council district was made up of two different representative districts—one a large one, entitled to two members, and the other entitled to only one member. There was a protest in relation to the representative district entitled to two members, and the Governor set the returns aside; but in this district, where two hundred and forty-two were returned as having been cast, that number elected the representative in that representative district, and also secured the election of councilors for the whole tenth council district. At this election, which was carried by violence, as appears by the statement of the judges who were driven off the ground, and who gave up the polls to the Missourians, not only did the representative keep his seat because there was no protest, but the vote which elected him elected the councilors for that whole council district.

Now I produce the proof. I produce these papers made at the time, showing the condition of things there. Perhaps there may still be some doubt about it, but I do not see where a hook can be found to hang a doubt upon.

[Here the honorable Senator yielded for an adjournment, the usual hour of adjournment having arrived.]

FRIDAY, *April* 4, 1856.

The Senate having resumed the consideration of the same subject—

Mr. COLLAMER said: Mr. President, at the time of the adjournment yesterday I was proceeding to show the reasons which induced me to believe that the invasion from the people of Missouri on the Territory of Kansas, on the occasion of the election of March, 1855, for members of the Legislature, extended to other parts of the Territory, besides the seven districts where the returns were set aside. I have shown from the returns, if they are to be believed, that such was the fact; I have read some of them for that purpose. To be sure, it cannot be expected that the returns on their face would show it; but in a great number of those districts, where there was no protest, where they were not set aside by the Governor, outside and beyond the seven contested districts, the great disparity between the returns of voters, by the census, and the vote cast, is such as to convince us that the vote must have been cast by the invaders. I alluded particularly to the case of the 5th district electing four Representatives, which was directly on the line, on the Missouri border, where alone, as the Senator from Illinois says, the invasion extended. I have shown how the voting was done there. I have shown that in the 10th representative district, where the returns were not set aside, the votes were certainly, if we can believe any of the testimony, cast by people from abroad. This is fully stated by the return of the judges I have already read.

The Territory was divided into districts for the purpose of taking the census. These districts are called election districts. The council and representative districts are composed of the election districts as described in the Governor's proclamation. I have alluded to the returns of the fifth district. I wish it understood that this 5th election district is on the line.

Mr. GEYER. Yes, sir.

Mr. COLLAMER. This district was entitled to two councilors and four representatives. The census returns show that there were four hundred and forty-two legal voters, and eight hundred and fifty-five votes were cast. I showed the great disparity which existed in the seventh council district which was entitled to two representatives, and the ninth district, between the election returns and the census.

I wish now to recapitulate for a moment. I think the invasion extended to all or most of the Territory, because, as I have said, such are the statements of the people on the ground in their public resolutions and meetings. In the second place, I think so because the statement of the Governor, as made to the House of Representatives in writing, to which I alluded yesterday, so alleged. In the third place, I say so because the invasion or incursion—if that be a softer term—

was for the purpose, and only for the purpose, of making a Legislature, entertaining their own views, and betraying a consciousness that unless they interfered, the people would elect one of a different kind. They went for that purpose. There is no reasonable probability to suppose that they confined their afforts to a minority of the Legislature; they went to make *the Legislature*. There is no reason to suppose they confined themselves to electing nine representatives out of twenty-six. In the next place, I say so, because they stated that they had done the work fully, and had made a "clean sweep." This view is confirmed by the statement which I have read of the election judges of the tenth district, appointed by the Governor, who stated on oath that the violence was such that the residents of the district went away and left it to the invaders, who appointed their own judges and made their own returns. This part of the council district, being the tenth representative district, was entitled to one representative, who was thus elected. That was a case never protested against. This is a statement made by the judges who were on the ground at the time.

The Senator from Illinois contended that the invasion was confined to the border. Now, I wish to call attention for a few moments to the returns which have been made, so that we may see what truth there is in that statement. I will take one of the returns for the purpose of illustration. The eleventh election district was a part of the ninth representative district.

Mr. GEYER. The eleventh and twelfth election districts formed the ninth representative district.

Mr. COLLAMER. This eleventh election district is Marysville, and we find by the returns that there were three hundred and thirty-one votes cast—three hundred and twenty-eight of which were cast for Marshall, as representative. In relation to that, I wish to read a protest of citizens of that place.

Mr. GEYER. Mr. Marshall was one of the judges of the election.

Mr. COLLAMER. That may be; I do not know whether it is so or not. I read the document as it is; I have not turned to the proclamation to see whether he was a judge or not; it is immaterial:

"Protest of M. F. Conway and ten others, claiming to be qualified voters of the Territory, against the election of John Donaldson and Thomas J. Marshall, complaining that upwards of three hundred votes were given by non-residents of the Territory at the Marysville precinct, and that the ballots received at the said precinct were opened and read by the judges before they were deposited in the ballot box; together with the oath of M. F. Conway in support thereof, with the affidavit of Cole McCrea, that upwards of two hundred non-residents of the Territory past west on the Leavenworth and Riley road, Wednesday and Thursday next preceding the election, declaring that they intended to vote at the Marysville precinct, and then return to their residence in Missouri; and that on the following Sunday and Monday he saw many of the same persons returning towards Missouri river, some of whom stated in the presence of their associates that they had voted and done the thing up right."

This was set aside by the Governor, and he decided the election on the votes cast in the twelfth election district, of that representative district. But the Assembly held this Marysville election to be all right.

The eleventh and twelfth election districts made up this ninth representative district. The number of voters in the eleventh district, (Marysville,) when the census was taken in February, was twenty-four, and the returns of the election show that there was cast three hundred and eleven votes! I will here say to the gentleman from Missouri [Mr. GEYER] that I am informed, from such sources as I believe, that Mr. Atchison was present at Marysville at the voting. If so, he will be able to tell all about it. I do not mean to say that he voted. I do not think he voted at all; but he was present and there were three hundred and thirty-one votes cast.

Mr. GEYER. I will ask at this stage of the discussion, what authority the Senator has for saying that General Atchison was there?

Mr. COLLAMER. In the first place, I say it on the authority of depositions which were shown to me by Governor Reeder, which were needed for the purpose of examination in Kansas, and they were carried back. I cannot give the names now, but I have them at my room. In the next place, Mr. Robinson, said to be Governor of Kansas, informed me that it was so. I think Mr. Pomeroy, also, informed me that General Atchison was there; and Mr. Lane also informed me of the same fact. Now, the gentleman has my authority for the statement. I believe it, because I have seen all these gentlemen, and I think it is pretty competent testimony. I did not refer to it with a view to make any remarks about General Atchison. I made the statement with perfect frankness, for if these things are not so, there is a means of contradicting them, but I have no idea that Mr. Atchison will say that the statement is not true.

It appears, then, in a district where there were twenty-four voters, it is returned in the record that there were cast three hundred and thirty-one votes! Now, where is Marysville, where this occurred? It is one hundred miles from the Missouri line, in the interior. Then the incursion did extend to the interior. Nor can it by possibility be said these three hundred and thirty-one votes were cast by people residing in that district who were in favor of electing an Assembly of such a character, because we perceive there were but twenty-four voters who lived there at all.

I have thus undertaken to show that the idea of the incursion being confined to the border, merely, is not well founded. The proof shows that it did extend to the interior. If there is any truth in the record made and returned at the time by the proper officers, such was its character. The testimony and the protest which I have read, show that such was its character. The Governor believed it to be so, and set it aside. All this is clear, if we can believe that there is any verity in the record; and yet the Legislature said this was all good enough, and they admitted that man to his seat.

The seven districts where the elections were set aside by the Governor, were entitled to nine representatives; and it is acknowledged that the invasion extended to those districts. The nine who were thus illegally chosen by the invaders were admitted to seats by the so-called Legislature.

By the return of the judges of the tenth representative district, which I read yesterday, it appeared that the judges were driven from the polls; and yet the man there said to be elected was admitted to a seat. In the fifth election district, directly on the border, four representatives were returned. There were only about four hundred legal voters there at the time of the census, in February; but there were nearly nine hundred votes cast in March. There was no protest entered in relation to that district, for a reason which I have already explained; one was attempted, but it did not reach the Governor in season.

Then in these cases there were fifteen members of the Legislative Assembly, more than one half of the whole number, illegally elected by the people not belonging to the Territory. I think I have shown by the records and testimony which I have presented, that the majority of that Legislature was elected by an incursion of people from Missouri. I dislike ever to have occasion to use terms of reproach. I avoid them whenever I can. When I use the word "incursion," I mean the coming in of people from Missouri by violence and force. I shall use no bad names.

But, Mr. President, it is said, that because the Legislature admitted those men who were improperly elected, it is all well enough, and we ought not to inquire into it. The idea that if a body of men were mere usurpers in the beginning, their own act could legitimate themselves, is to me one of the most preposterous things that ever was advanced. In order, however, to judge with some degree of fairness in regard to the action of these men, I desire for a moment to direct the attention of the Senate to the character of the elections now called good enough, and which they decided to be good.

Here I beg leave to remark, that when we show that a thousand votes were cast at a "place where there were only four hundred voters, it is not fair to say that that shows the extremity of the case; because it is to be borne in mind, as the facts I think are, that the resident voters when this incusion was made withdrew and left the ground. I have read the affidavits of some of the election judges, stating that they left the ground, and that the legal voters went away. When, therefore, we show that a thousand votes were cast where there were only four hundred voters, it cannot be said that that shows the extent of the fraud. The fact is, that most of the votes which were cast at the election of the 30th of March were cast by people from Missouri, and they should be counted as Missouri votes. I desire, however, to state the facts in regard to the elections which the Legislature held to be good.

The first election district being entitled to three representatives, had, according to the census, three hundred and sixty-nine voters; but one thousand and forty-four votes were returned as cast there. Let us see what the judges of election and persons on the ground said: At page 30 of the document to which I alluded yesterday—the executive proceedings of the Territory furnished by the President to the House of Representatives—I find a protest of Samuel F. Tappan and twenty others:

"Protest of Samuel F. Tappan and twenty others, claiming to be residents of the first election district, to declare void, to set aside the returns and election in said district or that certificates be given to Joel K. Goodin and S. N. Wood for council, and to John Hutchinson, E. D. Ladd, and P. P. Fowler, for the reason that six or seven hundred armed men encamped in the vicinity of the polls on the 29th and 30th of March, collected around said polls, and kept them in their possession on the day of the election till late in the afternoon, and who left the district during the afternoon and the ensuing day. Said persons were strangers, believed to come from the State of Missouri. Citizens of the district were threatened with violence and prevented from voting. Affidavit by all the signers, together with affidavits of Harrison Nichols, Edwin Bond, David Congee, N. B. Blanton, and Samuel Jones, tending to prove threats, violence, and non-resident voting."

There is also in relation to the same district, this protest by the judges of election appointed by the Governor:

"Protest of Perry Fuller and E. W. Moore, judges appointed to hold the election, and twenty-nine other persons claiming to be residents—complaining that the said election was opened by unauthorized judges at eight o'clock a. m., and at a place different from that prescribed in the proclamation, and that non-residents surrounded the polls with firearms and voted indiscriminately. Affidavit of Perry Fuller and E. W. Moore."

This state of facts, proved by the affidavits of the judges and of persons on the spot, shows that the people of the district did not vote, so that the one thousand and forty-four votes, which were there cast, were cast by people from abroad. Still the Legislature, when the case was presented to them, said, "This election is well enough;" and the persons returned were permitted to hold their seats.

The third representative district, which was composed of parts of two election districts, had, according to the proclamation, two hundred and twelve voters; but there were three hundred and forty-one votes cast; I will read the statement made by the judges in relation to that election:

"Report of Harrison Benson and Nathaniel Ramsay, under oath, that they entered upon their duties as judges of election, and polled some few votes, when they were driven from the room by a company of armed men from the State of Missouri, who threatened their lives, and commenced to destroy the house and beat in the door, demanding the right to vote without swearing to their place of residence; that having made their escape with the poll-books and certificates, they were followed by said persons, and the said papers taken by force.

"Protest of A. B. Woodward and nineteen other persons, claiming to be citizens of said district, against the election in said district of A. McDonald, O. H. Brown, and G. W. Ward, for the reason that several hundred men from the State of Missouri presented themselves to vote at said election, and upon being required by the judges to swear to their place of residence, they threatened to take the lives of the judges and tear down the house, and prepared to demolish the house. One of said judges ran out of the house with the ballot-box, and the other two were driven from the ground; that the citizens of the district then left, and the persons from Missouri proceeded to elect other judges and hold an election; with affidavit of J. E. Archibald and G. W. Umburger, with an additional affidavit of Joseph M. Nace, tending to prove violence and threats of death to any voter swearing to his residence, and that he was dragged by force from the window and prevented from voting."

This is the statement made by the judges appointed by the Governor to conduct the election; and yet the Legislature said, "all this is well enough," and the men returned as elected were permitted to hold their seats.

I will not fatigue the Senate by reading similar facts in regard to other districts, for I have read

enough to show what was the character of the elections with which the so-called Legislature was satisfied: and I have read enough to show, if we can believe any of the testimony furnished by the proper authorities, that these elections were made by people from abroad, and that the resident voters did not vote.

This proves that the invasion from Missouri extended beyond the seven districts where there was a contest, and went so far as to choose a majority of the whole Legislature. Having shown this, I wish now to call attention to another point. According to the census taken in February there were in the whole Territory, in all its districts, two thousand nine hundred and five voters. I have taken the returns of the votes said to have been cast on the 30th of March, and I have footed them all up. It must be remembered that, when these votes were cast, the real residents took no part, or, at any rate, a very limited part, in the transaction. In some cases, as I have shown, the people of the Territory went away. How many of them voted I know not; but there is no reason, according to the papers before us, to believe that one third of them voted at that election. Notwithstanding these facts, according to my footing up of the returns, there were six thousand two hundred and ninety-eight votes cast. In February, when the census was taken, there were two thousand nine hundred and five voters in the whole Territory—less than three thousand, and yet, in March, over six thousand votes were cast. You cannot deduct the three thousand from the six thousand, and say that the remainder shows the extent of the voters from abroad, because we have no reason to believe that more than one third of the real inhabitants voted on that occasion. Then there were more than five thousand votes cast by people from Missouri; and they spread themselves, as it appears, over the whole Territory, and in every district, except, perhaps, one. There may be some very small precincts to which they did not go; but, clearly, they went to the great body of the districts and precincts.

The settlement of the Territory went on with great rapidity in the season of 1855. It was the second year in the progress of the settlements. The accessions during the year were undoubtedly very great. The Senate, some time since, called upon the President of the United States for documents in relation to Kansas, and also asked for information as to the present population of the Territory. He sent us a letter from Mr. Calhoun, surveyor general of the Territory, giving an estimate of the number of inhabitants. How does he arrive at it? In October, 1855, there were two elections for a Delegate in Congress from that Territory. One was on the day which the Territorial Legislature had fixed; and, on that occasion, Mr. Whitfield was elected. Very few of the free State people voted at that time. They had fixed on another day for electing a Delegate, mainly on the ground that they did not wish to be understood as agreeing to the validity of the Territorial Legislature. On the day which they fixed for an election Mr. Reeder was chosen. I presume the voters at each election did not interfere with the others. I never ascertained whether, at Mr. Whitfield's election, there were any votes given for anybody else, but I take it that, if there were any, they were very few in number.

Mr. TOOMBS. There were thirty-nine votes given for Reeder at that election.

Mr. COLLAMER. It was a mere nominal amount. Mr. Calhoun undertakes to estimate the population of the Territory from the manifestations of those elections in October last. It will be observed that this was after the season for emigration had passed away—seven months after the election of March. About the period of that election, or soon afterwards, navigation opened and emigration rushed into the Territory. With all the accessions which were made during the summer, Mr. Calhoun computes the population, in October, as deduced from the votes cast at the Delegate elections in that month, at about twenty-five thousand. When the census was taken in February, the whole population was eight thousand six hundred and one. If his statement is to be relied upon, by October it had increased two hundred per cent.

It is further to be borne in mind, as Mr. Calhoun states in his letter, that the friends of Messrs. Whitfield and Reeder charged fraud on each other in their respective elections in October. At Whitfield's election, it was insisted that a considerable body of people came from Missouri and voted; and it was also charged that, inasmuch as Reeder's election was held without the sanction of law, people could vote two or three times with impunity, and they did it. Mr. Calhoun gives these statements as charges, but he does not undertake to pass upon their truth. Still, the whole number of votes cast for both Whitfield and Reeder in October was only about six thousand. When the population of the Territory had increased from eight thousand in March, to twenty-five thousand in October, they could not cast more than six thousand votes, and in that number many unlawful ones are supposed to be included. We find that, as early as March, 1855, when they had only one third of that population, there was cast six thousand two hundred and ninety-eight votes. Where did the additional votes come from? As the returns show they were dispersed all over the Territory. We find them at one district one hundred miles in the interior, at others, on the border, and at various places throughout the whole Territory. Where did they come from? What did they come for? What did they do there? What did they themselves say they had done? What do the election returns show that they did?

The majority report states the proceedings of a meeting held at Leavenworth during the past fall for the purpose, as its address stated, of disabusing the public of the wrong impressions which they had received in regard to affairs in Kansas. To use a common phrase, it was a white-washing meeting, at which the Governor, the judges, and other territorial officers, were the principal movers. Did that meeting deny this incursion, this invasion, this usurpation? Did it apologize for it? Did it limit it to a small part of the Territory? It says not one word upon the subject. This had been the great point of complaint The

statements made in regard to it had been such as to make the ears of the community tingle. This meeting never attempted any sort of explanation, excuse, or denial of the fact. It never attempted to disabuse the public mind on that subject.

A great deal is said by the people of Missouri and in the majority report and elsewhere, that there were many free-State men in Kansas who had been sent there by the emigrant aid societies—that there was an unnatural emigration prompted by those societies. I think that is without foundation. Most of the free-State people who were in Kansas went from the western States, not from New England. I have no particular proof of this fact, and I do not wish to speak without proof, and, therefore, I shall not comment upon it. It seems, however, that the people of Missouri thought their interests, in regard to slavery, were such that they could not allow the territorial election in Kansas to be conducted by the settlers. They had to go there as they viewed it. They did go. They went, as I have said before, undoubtedly for the purpose of making the election different from what it would have been if they had not gone. If this was not the case, they could not have supposed it necessary for them to go at all. What was the trouble? The difficulty was that a great number of free-State people had gone there, sufficient, not only to insure a free State, but to secure a majority of the Territorial Legislature. When we look at the returns of the election, however, what do we find? But one single free-State representative was returned as elected in the whole Territory! Taking all the districts, all the precincts, all the voting places, but a single free State man was returned to the Legislature.

There having been an invasion which extended to nearly the whole Territory, and secured the Legislature, the question arises whether their action could be in any way sanctified or legitimated by what subsequently occurred. I need not argue such a question. To my mind it is too plain to need an argument. If men—the majority of the Assembly—were illegally elected, as I have endeavored to prove, surely they cannot, by their own act, make themselves legitimate. They could not, by any resolutions which they might pass, make themselves legitimate, when the foundation of their action was usurpation. But it may be asked, why did not the people protest? I have shown why they did not protest to the Governor, and that was the only place where they knew that they could protest. They did it in some cases, and in others their protests did not arrive in season. Some were so scattered that they could not do it at all. It is said that they might have protested when the Legislature assembled. Let me ask gentlemen how was that Legislature composed? What redress was to be expected there? What a mockery to go there at all!

Besides, the people never had an opportunity to protest before the Legislature. They assembled on the second day of July. It is said that, on the day when they assembled, they passed a resolution offering to receive protests against the sitting members. It is true that they did pass such a resolution. It must be remembered, however, that they were sitting at Pawnee City—far in the interior—a place where they said they could not get accommodation for themselves. How long did they wait for people to present any protests under that resolution? On the second day afterwards they passed on the whole question.

What was the real object of that resolution? If it was for the purpose of receiving protests from the people, some notice should have been given to the people; but they had no notice of it. The true purpose is obvious from the result. There had been an election which the Governor set aside in seven districts, and in these cases he ordered a second election. Members had taken their seats with certificates under that new election. The object of asking for protests was to set aside those men elected at the second election, and they did turn out every one of them on the ground that the Governor had no business to set aside the returns given at the first election. What did they do next? They admitted the nine representatives whom I understand it is now conceded were chosen in this violent and illegal manner. We know how they were elected. I have shown you how a large majority of them were elected. How could their own acts make themselves legal?

I do not desire to use any language of violence in relation to this matter; but when the mind is convinced that a wrong, an outrage has been committed, it is exceedingly difficult to speak of it with entire equanimity of temper and with weighed words. To my mind, if there be any truth in the view which I have taken, this transaction deserves to be regarded as the most unjustifiable atrocity ever committed in abuse of the forms of law. In the argument which I have presented, I have submitted official papers to prove my position. I have alluded to the returns made at the time, and my argument is based on them. It may be, however, that there has been some exaggeration in the reports afloat in the world upon the question. This is probable, for there is hardly a subject of much agitation when it is not the case. I do not see, however, how such reports could destroy the character of the testimony which I have presented.

The Legislature being thus composed, what were its acts? What were the nature and character of its proceedings? I have no desire unnecessarily to consume time, but there are two or three laws passed by the Legislature to which I must call the attention of the Senate. They passed a law fixing the condition of election, and they provided that if any man, on being required to do so, would not take an oath to support and maintain the fugitive slave law, he should not be entitled to vote. This I call the law of disfranchisement.

I shall enter upon no discussion of the merits of the fugitive slave laws of 1793 and 1850. I shall reserve any remarks which I might feel disposed to make on that point, to a suitable and proper occasion. This is a new example in the history of legislation in many of its aspects. In the first place, it is an undertaking, on the part of a Territorial Legislature, to affix penalties and

consequences to a law of the United States which that law has never prescribed. When a man is guilty of breaches of that law, the act itself prescribes the punishment to which he is liable—heavy fines, and, perhaps, imprisonment. Now, by what authority can a State, much less a Territory, take upon itself, by its own legislation, to add to the extent of penalties which Congress has provided? Congress has not declared that if a man breaks that law he should be disfranchised as a citizen, and prevented from voting. Not only has it not passed, but it never can pass such a provision. Yet this so-called Legislature of Kansas Territory, in utter excess of power, by an abuse of authority, undertook to make such legislation as this.

It has other aspects worse than that which I have just presented. I have spoken of the power of affixing penalties to a breach of the law; but this legislation goes further and says that, though a man never proposed to break the law, if he does not take an oath to sustain it, and do whatever it may require in the future, he shall be disfranchised. You might as well compel a man to swear to support the revenue laws, or any other laws, before allowing him to vote. We know why this particular law was selected. Sir, this is a shibboleth.

Why was this selected as the shibboleth? We know the reason. There are many gentlemen, in some parts of the country, who believe that the fugitive slave law is hardly constitutional. Gentlemen who are friends of that law may not look at this view, but I can assure them that gentlemen of great intellectual and legal powers so consider it. Vast proportions of the people of our country entertain great doubts as to its constitutionality. There are duties prescribed in it which are repulsive to many men. For instance, a commissioner is authorized to appoint any man whom he pleases, as an officer to execute his warrant, and seize persons alleged to be fugitive slaves. Sir, is it possible that if a commissioner should choose to appoint the venerable Senator from Michigan, and give him his warrant to go and seize a slave, he would pledge himself under an oath to do so? Would he be willing to take an oath himself, or to require his fellow-men to take an oath that they would do it? No, sir.

This particular statute was selected, because it was a law in the nature of a political test, to some extent. They might just as well have taken any other political test, if they could find one which ran across the field and separated the parties of the country. It was invented for this purpose. It was a political shibboleth. It may be a pleasant thing to a man, for the time being, to have all the people of the United States sworn to support his platform, and not be allowed to vote unless they do so; but there are few reflecting men who would be willing to announce such a principle. If a man adopts this principle to-day, when he is in the majority, there is no knowing where he may be placed the next day. What would be said if it were undertaken to provide that before a man should vote he must take an oath to support the resolutions of 1798? Let us go further, and suppose it were proposed to swear him to support the last American platform, or to support the forthcoming Republican platform when it shall get out, what would be thought of it? Sir, the whole thing is preposterous in all its forms. It is an abuse of legislative power which is absolutely intolerable. What is to be its effect? We know very well the effect which it was designed to have.

There is another law passed by this Legislature to which I shall refer. I shall not quote it in detail, but it provides substantially that if any man shall put forth the sentiment that persons have not the right to hold slaves, although there is no law in the Territory authorizing it, he shall be subject to the penalties and punishment. What does that mean? It incorporates into their law the doctrine that the right to hold slaves there is antecedent and paramount to, and independent of, any law of the Territory. I read yesterday the language of the Kansas-Nebraska act, providing, expressly, that slavery was not legislated in or out of the Territory, and leaving it to the people to regulate it as they please. Under this enactment, what would be the first question which the people would naturally ask, when they came to talk about this great subject which has been carefully, in studied and guarded language, left to them for settlement? Suppose I had gone into that Territory as a farmer to settle, and the honorable gentleman from Missouri had settled there as a lawyer. Seeing that it was my duty to take a part in the settlement of the question of slavery, which was left to the people of the Territory, I would of course first desire to know what the existing law was. It would be necessary to know this in order to see what law it was necessary to make. Suppose I should go to the honorable gentleman from Missouri as a lawyer, and gravely put to him the question, "can a man hold slaves in this Territory without a law authorizing it." As a lawyer, he is sworn to support the laws of the Territory. He says to me "I will say nothing about it." I respond "I want your opinion as a lawyer, and I am willing to pay for it." He reads to me the language of a certain statute of the Territory, providing that if he should express a certain opinion he would be liable to severe penalties.

What would you give for a lawyer's opinion with a halter about his neck? The object, the purpose, the clear intent and meaning of this statute was to say to the people, "you shall not debate this question," a question which lies *in limine*, the first one which ought to be settled in order to arrive at a proper conclusion in regard to the point submitted to the decision of the people. The former territorial law to which I alluded, I called the law of disfranchisement. This I call the gag law.

Another statute has been passed by this so-called Legislature which it is equally important for us to notice, because we are looking for what we ought to do. It is provided that every man may vote at any future election who is a resident at the time—no length of residence is fixed—provided he has paid a tax in the Territory. We are told that this is a cautious and guarded election law. How so? If a man goes over from Missouri, and takes up a residence of an hour,

and pays a tax, he may vote. It is provided that the sheriff shall attend at the polls at every election, with his book, and receive the poll-tax from every man who tenders it, and shall give him a receipt. A man may come from Missouri an hour before and say, "I have paid my tax; here is my receipt, and I am a resident," and then he would have a right to vote.

Can any man on earth possibly avoid perceiving the purpose of this provision? It was enacted for the purpose of allowing persons to come over from Missouri and control the elections in Kansas, when and as often as they please.

I shall not go through other objectional features in the territorial laws, depriving the people of the power of electing their officers, appointing them by the Legislature, and deferring their election for long periods. I shall not allude to these matters, because I wish to keep the three laws to which I have referred, perfectly in view.

Now, Mr. President, in what a condition do these enactments leave the people of the Territory? We can all see their purpose. It is to drive out every man who entertains the opinion that Kansas ought to be a free Territory, and a free State; or, if he cannot be driven out, to subject him entirely to the influence of persons in Missouri. The people are bound hand and foot. They are subjugated, as much so as the Romans were when the Samnites had them in the Caudine forks. They were subjugated; they passed under the yoke, and history says they were stripped of all but one garment. This is the condition in which these people are left. They call upon us to correct this violence and usurpation, and to remove these tyrannical laws from them. They are told that they can go on and correct all this in the next election

Is it possible that they are to be treated with such a species of mockery? It is like tying a man, head and foot in a net, and throwing him out to the world, and telling him to help himself. Make an election! "Why, I cannot pronounce your shibboleth." Make an election about the subject of slavery! "You would not let me agitate it. You would not even let me compare notes with my neighbor in relation to our notions about it." Sir, how is it possible for these people to make an election? They cannot pronounce your shibboleth; they are not permitted to discuss the subject about which an election is to be held. The provisions of the election law of the Territory, to which I have alluded, would enable Missourians now, without violence, according to the forms of law, to go into the Territory and outvote the inhabitants at their pleasure.

Then, there is no measure of redress in the idea of leaving it to the people to be settled by another election. If they cannot be relieved in that way, can they not be allowed hereafter to make a constitution and State government for themselves? But will not that be an election? Must they not choose delegates to the convention to make that constitution? Will it not be subject to the same difficulties? They must choose those men under these very laws. The bill before the Senate provides that, when they shall have a population of ninety-three thousand, they may proceed to form a convention and make a State constitution to be presented to Congress. Who is to elect delegates to that convention? You are brought back again to the same condition of things. You throw them into the same position in which they are now. You require them to make bricks without straw. You oblige them to make an election when the existing laws will not permit them to have a free election.

The people of Kansas thus conditioned desired to obtain some relief. Where were they to look for it? Surely, not in the administration of the laws to which I have alluded by a court. A court cannot help the statute; it must carry it out. Could they look for redress to the Executive of the United States? The President tells us plainly that he has no power to correct usurpation. It would, however, seem to me that, when the President was informed of the acts of the people of Missouri, and which he calls in his message "illegal and reprehensible," if he found the Executive without the power to redress, as he intimates, he should have presented the same to Congress, recommending the proper measures for redress. He does no such thing. He distinctly tells us there is no relief to be had from him, and that those laws, such as I have described them, will be carried into execution by the whole military power of this nation. We are told by the Senator from Illinois, that not only the people of Kansas who have been subdued will be trod upon, but that those of us who make objection to it will be subdued. He says, "We mean to subdue you." Perhaps, it may be so. This manifesto is, in substance, this: All you who would sustain and restore the Missouri compromise; all who are opposed to the extension of slavery into free territory; all who will not approve of the subjugation of freemen by force, that slavery may succeed, and thus the relative weight of the slave States be made, though a decided minority, forever paramount in this Government, are to be *subdued*. I know very well that there is power in the Government of the United States to crush out the people of Kansas. I know that justice may be denied where it ought to be granted. If that be so, it will be but the beginning of the end. No quiet and peaceful results can flow from such a course. The sentiment of liberty and justice of the people of this country cannot be *subdued*. Party may succeed for a time, but the final triumph of truth and justice is certain.

But, sir, what did the people of Kansas endeavor to do? They could get no relief from the courts or the President, and what did they do? They presumed to assemble together and to discuss the matter in various meetings. Finally they appointed delegates to form a State constitution to be presented to Congress. The majority of the committee say that these proceedings have been taken by the people for rebellious and treasonable purposes, and not with a view to present the constitution here. Indeed, I think the Senator from Illinois said that it would be news to them, derived from the minority report, that such was the purpose which they entertained. He says their purpose was treason against the United States. I differ entirely with the Senator about that matter.

I take the ground that they did all this for the purpose of forming a constitution to be presented to Congress for its action. I do not wish to be understood as denying that a large body of the people have considered that the laws of the Territorial Legislature, the fruits of usurpation and violence, had no legal binding force; but that was not the purpose for which they assembled and made a constitution. How in candor are we to get at the purposes of a body of men? I am aware that there is in the world a sort of morbid species of adventurous credulity in men who refuse to follow the open, beaten track of truth, and prefer resorting to the improbabilities of circumstances as a better and a safer ground of duty. Such men in the ordinary walks of life always see a great deal further into a millstone than anybody else. If they agree with you, they never do for the reason which you give. They always have a wiser reason. Perhaps, sir, you have heard the story of the old Dutchman, who said that a horse could draw more down hill than up, and it stood to reason, because he could get a better foot-hold then. [Laughter.] He could not be satisfied that it was by the attraction of gravitation.

I say that in this case the character of the majority report is much like this. The plain and beaten track of candor, it seems to me, is always to judge of the purposes of people as they avow them and present them. When we talk of the doctrines of a party, or the creed or faith of a religious sect, we take their own version, and not a perversion. Now let us see what the people of Kansas state to be their object. The first meeting which they held was before the legislative session terminated, while that body was yet sitting. A notice was issued signed "Many Citizens," calling for a meeting of the people without regard to party distinctions, to be held at Lawrence on the 15th of August, to discuss their situation. Now let us see what the people of Lawrence said about their purposes. Among their proceedings I find this resolution:

"*Be it resolved*, That we, the people of Kansas Territory, in mass meeting assembled, irrespective of party distinctions, influenced by a common necessity, and greatly desirous of promoting the common good, do hereby call upon and request all *bona fide* citizens of Kansas Territory, of whatever political views or predilections, to consult together in their respective election districts, and, in mass convention or otherwise, elect three delegates for each representative of the Legislative Assembly, by proclamation of Governor Reeder of date 10th of March, 1855; said delegates to assemble in convention at the town of Topeka, on the 19th day of September, 1855, then and there to consider and determine upon all subjects of public interest, and particularly upon that having reference to the speedy formation of a State constitution, with an intention of an immediate application to be admitted as a State into the Union of the United States of America."

Here their purposes are clearly stated. They called a meeting to assemble at Topeka, on the 19th of September, to consider whether it was not best to form a State constitution, with a view to application to Congress for admission into the Union. That is distinctly printed in their published proceedings. Now, what would be the natural course of investigation? I take it that it would be to look at the action of the meeting of the 19th of September, which the Lawrence meeting called. I take it that the natural way is not to run off into collateral and party meetings, held in the mean time, but to go to the meeting which this one called, and see what was there said. The people met at Topeka on the 19th of September, and what did they say there?

Before I go further on this point, perhaps it may be proper to inquire what had the people a right to do in order to obtain redress? Had they a right to form a State constitution? I know there are many cases where there has been in the first place an enabling act of Congress to authorize the people of the Territory to form a State constitution, but there are many cases where the Territories have formed State constitutions without any law of Congress authorizing it. Could the fact, that the Territorial Legislature called a constitutional convention, give it any additional validity? I say it is in the nature of things beyond their power to do anything to create a government paramount to themselves. So said Attorney General Butler, when consulted by President Van Buren in relation to the Arkansas case. He stated, that if a Territorial Legislature passed such a law it would be utterly void.

Now, what has been the course in regard to the formation of State constitutions by Territories? The first Territory which we ever had, Tennessee, formed a State constitution without the authority of a previous act of Congress. They organized a government, chose Senators, sent their constitution with their Senators, who presented it, and were admitted. The State of Arkansas formed its constitution without any enabling act of Congress. Michigan, Florida, and Iowa, formed their constitutions in the same way. I do not allude to California, because I am confining myself to those cases where territorial governments existed by authority of Congress.

Attorney General Butler said, in the Arkansas case, that the people, under the clause of the United States Constitution allowing them to assemble for redress of grievances, may form a State constitution, and organize a government, so far as is necessary to choose agents to represent them here. What did these people do? By virtue of the call made by the Lawrence meeting, there was a convention held at Topeka on the 19th of September. Did they propose to proceed against the action of Congress? Let us see what they say:

"Whereas the Constitution of the United States guaranties to the people of this Republic the right of assembling together in a peaceable manner for the common good, to 'establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity;' and whereas the citizens of Kansas Territory were prevented from electing members of a Legislative Assembly, in pursuance of the proclamation of Governor Reeder, on the 30th of March last, by invading forces from foreign States coming into the Territory and forcing upon the people a Legislature of non-residents and others, inimical to the interests of the people of Kansas Territory, defeating the object of the organic act, in consequence of which the territorial government became a perfect failure, and the people were left without any legal government, until their patience has become exhausted, and 'endurance ceases to be a virtue;' and they are compelled to resort to the only remedy left—that of forming a government for themselves; therefore,

"*Resolved by the people of Kansas Territory, in delegate convention assembled*, That an election shall be held in the several election precincts of this Territory, on the second Tuesday of October next, under the regulations and restrictions hereinafter imposed, for members of a convention to form a constitution, adopt a bill of rights for the people of Kansas, and take all needful measures for organizing a State government *preparatory* to the admission of Kansas into the Union as a State."

They then go on to appoint a committee to issue a proclamation providing rules and regulations for conducting the election, and sending delegates to the convention; and they further

"*Resolved*, That on the adoption of a constitution for the State of Kansas, the president of the convention shall transmit an authenticated copy thereof to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives; to each member of Congress, and to the Governor of each of the several States in the Union; and adopt such other measures as will secure to the people of Kansas the rights and privileges of a sovereign State."

It is difficult to see how men's purposes could be more distinctly expressed. The committee thus appointed issued a proclamation to the people, calling on them to make an election. I will read from it:

"*To the legal voters of Kansas:*

"Whereas the territorial government as now constituted for Kansas has proved a failure—squatter sovereignty under its workings a miserable delusion, in proof of which it is only necessary to refer to our past history and our present deplorable condition—our ballot-boxes have been taken possession of by bands of armed men from foreign States—our people forcibly driven therefrom—persons attempting to be foisted upon us as members of a so-called Legislature, unacquainted with our wants, and hostile to our best interests—some of them never residents of our Territory—misnamed *laws* passed, and now attempted to be enforced by the aid of citizens of foreign States of the most oppressive, tyrannical, and insulting character—the right of suffrage taken from us—debarred from the privilege of a voice in the election of even the most insignificant officers—the right of free speech stifled—the muzzling of the press attempted; and whereas longer forbearance with such oppression and tyranny has ceased to be a virtue; and whereas the people of this country have heretofore exercised the right of changing their form of government when it became oppressive, and have at all times conceded this right to the people of this and all other governments; and whereas a territorial form of government is unknown to the Constitution, and is the mere creature of necessity awaiting the action of the people; and whereas the debasing character of the slavery which now involves us impels to action, and leaves us as the only legal and peaceful alternative the immediate establishment of a State government; and whereas the organic act fails in pointing out the course to be adopted in an emergency like ours: Therefore you are requested to meet at your several precincts in said Territory, hereinafter mentioned, on the second Tuesday of October next, it being the ninth day of said month, and then and there cast your ballots for members of a convention, to meet at Topeka on the fourth Tuesday of October next, to form a constitution, adopt a bill of rights for the people of Kansas, and take all needful measures for organizing a State government preparatory to the admission of Kansas into the Union as a State."

It then goes on to fix the election precincts, and name the judges, and concludes thus:

"The plan proposed in the proclamation to govern you in the election, has been adopted after mature deliberation, and, if adhered to by you, will result in establishing in Kansas an independent government, that will be admitted into our beloved Union as a sovereign State, securing to our people the liberty they have heretofore enjoyed, and which has been so ruthlessly wrested from them by reckless invaders."

In pursuance of this proclamation, the people elected delegates to a convention, which met in October, and formed a State constitution. They did form a constitution, and they have organized a government under it. They chose a Legislature, which elected Senators. Their constitution has been sent here, and was presented by the honorable Senator from Michigan.

Now, I desire to know what there is in this whole proceeding to call for any severe animadversion? Is there to be found anything in it differing from what repeated precedents had authorized them to do? Is there any intimation in any part of this line of proceedings, which I have gone through with, of a design to commit treason against the Government of the United States? What is treason? Nothing more, and nothing less, than waging war against the United States. The statute of Edward, defining treason, was the basis for our constitutional provision on the subject, and it expressly confines it to making war upon the Government. Has there been any idea of their making war against the United States? Even the idea of resistance to a United States officer has never been entertained by the people of Kansas.

It is true, that they spoke of and treated the Legislative Assembly, elected by people of Missouri, as a usurpation, and its acts as a nullity, or worse, to which there was due from them no obligation of obedience; but, I insist that such a view, and such a disobedience was, and would be, no treason, no waging war against the United States.

I come now, Mr. President, to examine the majority report. I cannot take time to go through it with particularity in all its parts, but I desire to view a few of its leading features. In the first place, I wish to inquire as to the character which it presents in regard to the invasion. I venture to say there is no man on earth who would take this report and read it carefully, who could ever dream that there ever was such a thing in existence. It is confessed by the Senator from Illinois on the floor; but in the report nothing is confessed or intimated. There is such a thing as insinuation, I know—that is not exactly suppression. By insinuation, I mean the intimating of that which truth will not permit us to assert, or evading that which truth will not permit us to deny. The invasion is not denied in the majority report, nor is it asserted there. It is cast entirely in the shade. It says that there have been false stories told in Missouri.

Mr. DOUGLAS. Will the Senator allow me to interrupt him for a moment?

Mr. COLLAMER. Certainly, sir.

Mr. DOUGLAS. The Senator has remarked that it has been several times admitted on the floor that seven districts were carried by invasion. I beg leave to state to him that no such thing is admitted. My position was that nobody there at the time ever pretended that there was an invasion except in seven districts. That there was one at all, was the point in dispute.

Mr. COLLAMER. The speech will speak for itself.

Mr. DOUGLAS. Of course; but I wish to have it fairly stated.

Mr. COLLAMER. To confine it to seven districts is to acknowledge that it extended to seven. That is a proposition which is capable of being understood without an argument. I suppose that an invasion could not be confined to a place to which it never extended. What does the report of the majority say in relation to it:

"Exaggerated accounts of the large number of emigrants on their way under the auspices of the emigrant aid companies with a view of controlling the election for members of the Territorial Legislature, which was to take place on the 30th of March, 1855, were published and circulated. These accounts being republished and believed in Missouri, where the excitement had already been inflamed to a fearful intensity, induced a corresponding effort to send at least an equal number to counteract the apprehended result of this new importation. Your committee have not been able to obtain definite and satisfactory information in regard to the alleged irregularities in conducting the election, and the number of illegal votes on the 30th of March; but, from the most reliable sources of information accessible to your committee, including various papers, documents, and statements, kindly furnished by Messrs. Whitfield and Reeder, rival claimants of the Delegate's seat in Congress for Kansas Territory, it would seem that the facts are substantially as follows."

What facts follow? It goes on to state that a proclamation was issued by the Governor, that he set aside the returns in seven districts, and issued orders for another election, which was held. It states that the Assembly met on the 2d of July at the place fixed by the Governor; that they appointed a joint committee to wait on the Governor; that he received them and sent his message in due form; and then,

"On the first day of the session, and immediately after the organization of the House was effected, the following resolution was adopted:

"'*Resolved*, That all persons who may desire to contest the seats of any persons now holding certificates of election as members of this House, may present their protests to the committee on credentials, and that notice thereof shall be given to the persons holding such certificates.'"

That was on the 2d of July, the first day of the session; but on the 4th of July the legislative committee made their report, saying, that as to fifteen seats, there was no contest, and as to the others, they took the statute for their guide—I think the expression is that they considered it the polar star—and they decided that the second election, which the Governor ordered, was of no consequence; and they admitted everybody who received majorities at the first election. The majority report then goes on to state that, in regard to those whose seats were not contested, there never was any protest or any allegation of any irregularity or fraud at the time. The facts which I have stated are a sufficient answer to that assertion.

Now, what would be understood by any man who took up the statement of the report and read it by itself, never before having heard of the transaction? Would he suppose there was any invasion at all? He would understand, from reading the report, that there had been some stories about violence, but that the Legislature examined the subject and decided that there was no foundation for them. I ask any gentleman, is that a true picture of the transaction? Does the report tell us anything about the invasion being made anywhere, confined to any part, or extending to any part of the Territory? Not a word of it. By making this statement in regard to the proceedings of the Governor and Legislature, it is attempted to be proved that the Legislature was all right, and that its acts cannot be inquired into.

The next feature in the majority report, to which I call attention, is in regard to the laws passed by the Territorial Legislature. Does it give them? Not one of them. The Senator from Illinois, in his speech, to be sure, speaks of certain laws which were objected to, but he says there never was any attempt to put them into execution, and it was not on account of them that violence afterwards arose. It is evident, then, that he considers that these laws are regarded as objectionable. Does his report give them? Does it deny them? No. What is the story told about them? The report says that there was a meeting holden at Leavenworth which stated the facts about them. Who composed that meeting? The report says that it was without respect to party. I am not informed on that point, and I shall say nothing about it; but the meeting was composed of the officials of the Territory. The report, instead of giving the objectionable laws, or stating what they are, or giving any account of them, says what that meeting stated them to be. The report says that in that meeting were officers who were to execute the laws, and, therefore, it is sufficient to give their views of them. The moment you examine the resolutions and statements of that meeting, you find that, in stating the election law to which I have alluded, they do not give its true character. They say that complaint has been made about a poll tax, but that there is no such requirement. I have shown you that there is. The act of the Legislature provided for the paying of taxes on election day by persons who were then in the Territory. The address of this meeting denies that the people are bound to swear to enforce the fugitive slave law, but admits that they are compelled to do it, if their votes are challenged, and they are called upon to do it. Is not this escaping from the plain provision?

Instead of attempting to deny the existence of these laws, or to tell what they are, or to assert what they are, this is merely an attempt to escape by undertaking to say what somebody else said about them. That I call an insinuation.

The next point in the majority report to which I allude is the statement in relation to the course which the people of Kansas took to endeavor to obtain some redress. What is the story about that? Instead of taking the proceedings of the Lawrence meeting, which I have stated in my minority report, and then the meeting at Topeka which the Lawrence meeting called, and then the statements made by that meeting itself as to its purposes, which I have read, what does the report do? It first states the Lawrence meeting; and what next? Does it go through the line of the meetings as they were called? Not at all. It immediately takes a diversion from that path, and goes off to a certain meeting holden at Big Springs. There was a party meeting at Big Springs. I know there was, because its proceedings are bound up in the same pamphlet with the Topeka meeting, which the gentleman says he knew I had. Certainly I had, and I gave him a copy.

The copies are all alike I suppose. The report goes off from the Lawrence meeting. Instead of going to the meeting called by the one held at Lawrence, in which they state their purposes, it diverges from that, and goes off to the Big Springs meeting. I do not know that a single man who was in the party meeting at Big Springs was in the meetings at Lawrence and Topeka.

Now, is it fair, is it right to attempt to give character to this straight, direct line of proceedings by the people, by going off to a political party meeting, and giving a version of what it did? It is true that the Big Springs meeting, among other proceedings, approved the call of the Topeka convention; but who asked them for any approval of it? Their approval made no difference. I think no gentleman here would be willing to say that, when he calls a course of meetings of his own political party to set out their purposes, any character can be given to those meetings or their proceedings by side-bar assemblages who say they approve of them? Certainly not. Now, what meeting was it which called the constitutional convention? The meeting at Topeka, of the 19th of September. They state their purposes, which I have read. The proceedings of that meeting which called the convention are not given at all in the majority report. It states that there was such a meeting, but their proceedings are not given. The very proceedings which declared their purposes, and which I have set out in the minority report, are not there. I do not use the word "suppressed."

Mr. DOUGLAS. No; because it would not be true if you did. I will show you that it is in the report.

Mr. COLLAMER. I have not seen it.

Mr. DOUGLAS. If you read the report you will see it.

Mr. COLLAMER. The proceedings of the meeting of September 19?

Mr. DOUGLAS. The majority report sets out in full the preamble to the resolutions of the meeting. It then states that they passed resolutions calling a convention to meet at Topeka. Were you speaking of the Lawrence or Topeka meeting?

Mr. COLLAMER. I was speaking of the Topeka meeting of the 19th of September.

Mr. DOUGLAS. I have stated what they did on the 19th of September; I have not put in the report the whole pamphlet.

Mr. COLLAMER. There is the point.

Mr. DOUGLAS. On that point I wish to be distinctly understood. I have not set out the whole proceedings, or the speeches in those meetings in full; but they are precisely in this order: first, the meeting at Lawrence; second, at Big Springs, which indorses the Lawrence movement; third, the meeting at Topeka on the 19th of September, called by those two meetings; fourth, the convention at Topeka, which formed the constitution. I will give the reason why I stated them in that order. I met the Senator from Vermont at his room by agreement, and we there came to an understanding that that was the order of proceedings in which the constitutional convention was gotten up. If there is a misstatement in the report in regard to them, it is the Senator's fault, because he agreed to that arrangement at the time. I have the memorandum on which it is written, taken in his room. It is his agreement, and never has been departed from since. The facts are distinctly and truly stated in the report, as I will show when the gentleman gets through.

Mr. COLLAMER. Will the Senator show me at what page of the report the proceedings of the Topeka meeting of the 19th of September are given?

Mr. DOUGLAS. It is in the regular order.

Mr. COLLAMER. At what page?

Mr. DOUGLAS. At pages 31 and 32, where this statement is to be found:

"In pursuance of the recommendation of the mass meeting held at Lawrence on the 14th of August, and indorsed by the convention held at the Big Springs on the 5th and 6th of September, a convention was held at Topeka on the 19th and 20th of September, at which it was determined to hold another convention at the same place on the fourth Tuesday of October, for the purpose of forming a constitution and State government; and to this end such proceedings were had as were deemed necessary for giving the notices, conducting the election of delegates, making the returns, and assembling the convention. With regard to the regularity of these proceedings, your committee see no necessity for further criticism than is to be found in the fact that it was the movement of a political party instead of the whole body of the people of Kansas, conducted without the sanction of law, and in defiance of the constituted authorities, for the avowed purpose of overthrowing the territorial government established by Congress."

Mr. COLLAMER. That is exactly as I understand it.

Mr. DOUGLAS. You are very unfortunate in stating how you do understand it.

Mr. COLLAMER. I said that the proceedings of the meeting at Topeka, of the 19th of September, which called the convention to form the constitution, were not given. I say now, they are not given. That was the meeting which called the constitutional convention. That was the meeting which stated the purposes of the movement. I have read to you their statement of their purposes, wherein twice in the resolutions, and twice in the proclamation of their committee, they said expressly the design was to form a constitution, and presenting it for admission into the United States; four times over that is stated in those proceedings. Neither one of those statements is given in the report. The committee state that such a meeting was holden at Topeka, on the 19th of September, as called by the Lawrence meeting, which the Big Springs convention said they approved. The report states that such proceedings were taken by that meeting in Topeka, of the 19th of September, as to call a constitutional convention. But what is the point? It is whether or not their purposes were revolutionary—whether their object was violence, or the formation of a constitution to be presented to Congress for admission. That is the point. Now, sir, what does this report say? The persons concerned in the Topeka meeting, of September 19th, declared their purpose, I believe four times, but certainly three, to be that, and that only, namely: to form a constitution, with a view to present it to Congress for admission. What does the report which the gentleman has read say of the proceedings of that meeting?

"In pursuance of the recommendation of the mass meeting held at Lawrence on the 14th of August, and indorsed by the convention held at the Big Springs on the 5th and 6th of September, a convention was held at Topeka on the 19th and 20th of September, at which it was determined to hold another convention at the same place on the fourth Tuesday of October, for the purpose of forming a constitution and State government; and to this end such proceedings were had as were deemed necessary for giving the notices, conducting the election of delegates, making the returns, and assembling the convention."

This is all the notice which the report takes of that meeting; and then it goes on to say, in regard to their purposes:

"With regard to the regularity of these proceedings, your committee see no necessity for further criticism than is to be found in the fact that it was the movement of a political party instead of the whole body of the people of Kansas, conducted without the sanction of law, and in defiance of the constituted authorities, for the avowed purpose of overthrowing the territorial government established by Congress."

This is what is stated to have been the purposes of the meeting; but what are they when we examine them? A mere call for a convention to form a constitution for admission into the United States Government to be presented to Congress. What the Senator says about the order in which these were to come is true; but the difficulty is, that they have not come in; that is the trouble. To be sure, it was distinctly understood between the Senator and myself, that the order of the proceedings in point of date was, first the Lawrence meeting, then the first Topeka meeting, and next the Topeka constitutional convention. That was the order of their dates.

Mr. DOUGLAS. I wish to be understood as to the matter of fact. I stated, that the order agreed upon was, first, the Lawrence meeting; next, the Big Springs convention, which indorsed the Lawrence meeting. I stated in the report the fact, which the Senator pointed out to me, that a resolution of the Big Springs convention indorsed the Lawrence meeting. He pointed out to me that the Big Springs meeting was the second step.

Mr. COLLAMER. Second in point of time.

Mr. DOUGLAS. That was the second step in the movement for a State government. The third was the meeting at Topeka of September 19th. It was in the second meeting—the one at Big Springs—that they avowed their purpose to put at defiance the authorities of the United States, and to resist to a bloody issue. That is the fact, I think.

Mr. COLLAMER. I understand what I am about. I am not misstating. I will give the truth in relation to that transaction. I noticed that, in the message of the President of the United States, it was said that the whole movement was by a party. I read these proceedings, and I did not view it in that light. I supposed that those who presented it in that light had taken it up as beginning with the Big Springs convention. Now, that was a party meeting. Having looked through the papers, and seeing the matter in a different light, I called the attention of the gentleman to the order of the dates. The first meeting was that at Lawrence, which was not a party meeting. That Lawrence meeting did not call the Big Springs meeting, which was a party one. That Lawrence meeting called the Topeka convention of the 19th of September, without respect to party, and stated their purposes to be to form a State government for the admission of Kansas into the Union. Now, when I called the gentleman's attention to the order of the dates of these events, I did it for the purpose of having them appear in their order. From my investigation into the true character of the transaction, I did not consider it a party movement; and I think I shall be borne out in this by the papers. I do not complain of the gentleman for bringing in the Big Springs meeting. It is true I did not put it in my minority report, and I will state why I did not. It was not in the line of proceeding at all. It was a collateral side meeting of a party. It is true they approved of the call made for the meeting at Topeka; but nobody asked them for that; and it made no difference. I did not think it right to undertake to give character to the proceedings of the Topeka convention by that side meeting, and therefore did not think it proper to put it in.

What is the course of the majority report? After mentioning the Lawrence meeting, it goes on to the Big Springs party meeting, and extracts their violent proceedings, if you please so to call them, with a resolution approving of the call; and what next? They then call up the Kansas League, a secret military association. Oh, it is terrible! Awful oaths! The book containing them is exhibited as having been got out of a man's mouth. *Monstrum horrendum, informe, ingens, cui lumen ademptum!* We are to be frightened with it. What connection had that with this business? I know the report of the committee half intimates that the Big Springs side meeting had some connection with that league; but it appears by the paper that it existed long before. It does not appear that any man in the Big Springs convention indorsed it. It is true they passed resolutions inviting people to form volunteer companies; but there was no intimation about the Kansas League. The connection between them is undertaken to be extracted out of the fact that the Big Springs meeting recommended the formation of volunteer companies. That had no connection with the Big Springs meeting; and even if it had, it had nothing to do with this line of proceedings. The difficulty is, that the proceedings of the meeting at Topeka, which called the constitutional convention and set forth their purposes fully, are not presented in the report. Their meetings are represented as having been party meetings, and their purpose violence, although they had declared their purpose fully, completely, and repeatedly.

Such is the course assigned to the proceedings of these people by the majority report. There are other things in the report of a similar character; as, for instance, the allusions to the emigrant aid society. It is not alleged that the aid society have used or advised any force or violence; but the inference is left to be drawn. There are a variety of other things alluded to of a similar character, not material to the great leading features of the case. I say, therefore, that, as a fair representation and true picture of the leading features of the case, the majority report

falls altogether short of it. Indeed, I cannot but say, from what I have already shown, that as a picture, reproducing a true impression, there is not one single lineament which is not either distorted in the drawing or discolored in the shade.

Mr. President, in the speech of the honorable Senator from Illinois, he advanced the idea that my minority report countenances violence. I can see how such an impression is produced on the gentleman's mind. I think it arises from reading a part, and not the whole together. I do not mean to be understood as saying that I think he meant to pervert it. I do not believe it. I do not like to say such things. To charge intentional suppression, to my mind, implies wrong intentions. I do not really think the gentleman meant to use it in any bad sense of that kind; but I cannot see how it is that he can charge me with suppression in not inserting the proceedings of the Big Springs convention, to give character to a line of proceedings with which they had no connection.

But he says my report countenances violence. How so? If it be read with any degree of candor and fairness, it will be seen that it endeavors to show what it was to be expected would be the action of societies and individuals who should enlist in this experiment—what experiment? The experiment which Congress had put on foot. I say that, if they enlisted in it for the purpose of legal voting and legal settlement, it was praiseworthy. Finally, after all, I said that if this experiment—the experiment which the Government had put on foot—I repeat it, and have repeated it a great many times here, and quite too often—unavoidably resulted in violence, it was the vice of a mistaken law. Is not that a mere truism? Is that justifying violence? But the Senator seems to intimate that if the people from the free States had reason to expect there would be violence, they should not have gone there! I deny it. If a grant is made, if you please, to the honorable Senator and myself of a great tract of land—the benefit to inure to whichever of us shall cultivate the most of it in two years—is he not to be permitted to enter on it with his workmen, because he knows me to be a pugnacious fellow, who will fight with him? If he does apprehend that, it does not foreclose him from going on and making his improvements. If the people did apprehend violence, it was no reason why they should not enter on a fair enterprise; but they had no particular reason to apprehend it—none is shown and none is known. If there can be extracted, by fair reading, out of my report, anything to countenance violence, it must be extracted through a very distorted alembic; it is extracting poison from the most harmless herbs.

Mr. President, I will now pass to the ultimate point of the case, and the last which I wish to dwell upon, and that is, what shall Congress do? I have no desire to multiply words in regard to what we have the power to do. I have, in the progress of my remarks, stated my views upon that subject. I think we have sovereign power. We have the right to repeal the whole of their laws, or any one of them—to legislate for the Territory as much as we please. Now, what ought to be done? It is perfectly obvious that it is no sort of use to leave that people as they are, with any hope or expectation of amendment. I have stated my reason for that position. They are bound hand and foot, and no good can result from leaving things to them under the operation of the Kansas law. Is it true, as the gentleman seems, towards the close of his speech, to argue, that I have, in effect, made an argument against the law organizing the Territory of Kansas? Really, it is something of a discovery that I am opposed to the Kansas bill! I think it would rather astonish my people to learn that it was a new discovery; but so, indeed, it has been stated. Well, what if it is so? The experiment has been put on foot there, and has been carried on. We see how; we see its character. Does the result, thus far, commend it to our approval? Is it best to persist in it? Is it desirable to persist in it, and to put the President in the position of sending the army to dragoon these people, and ride over them rough-shod, for the purpose of continuing this vassalage which usurpation has produced? Is that Democracy? Is that good, safe, prudent, kind counsel? Would it be likely to produce good effects in the result? No good can be effected in that way. There must be something done now; what is to be done?

In my view—though perhaps it would be impracticable of accomplishment—it is best to abandon the whole experiment, for various reasons already given in the progress of my remarks. I think it was ill-advised; I think it was inconsiderate; I think it was a breach of faith; I think it will never produce quiet; I think the people of the free States will never be reconciled to it. Then we had better abandon it altogether. Sir, the passage of the Kansas and Nebraska bill had an effect on the public mind which gentlemen perhaps can slightly realize. I know there are few gentlemen from slaveholding States who are present to hear what I have to say; but there are some things which I must say, whether they hear me or not. When that bill was pending before Congress, gentlemen of the Democratic party, as well as of the Whig, of high position in the North, who had been in Congress and in various departments of the Government—who had associated with gentlemen from the South for a long time, said: "The South are a highly chivalric people; and it is utterly impossible that they will agree to pass the bill and destroy the Missouri compromise." That compromise was produced by southern gentlemen, with the aid of some northern votes. It was said: "It is a contract of their own making; they will never break it."

But it has been done; and excuses are rendered for it. What are they, or what are the leading ones? They seem to me to be excuses unworthy of the intelligence of the sources from which they come, and much less worthy of being satisfactory to those to whom they are addressed. The first is, that the compromise was nothing but a statute, which could be repealed. Certainly it could be repealed. Sir, plighted faith is relied on when there is no other security. After the slaveholding part of the community had had Missouri, Arkansas, and all south of that line, disposed of in their

own way, and had made them into slaveholding States, we did not find our security in the statute merely. I admit, we were not well satisfied with it at all; but the only part of it with which we were satisfied was, that slavery should not extend north of 36° 30′. We did not find our security for this in the fact that it could not be repealed. We founded our security in a confidence in the high intelligence and honor of those who had made the contract.

Another excuse is, that we would not extend it. That is to me strange. Two of us own a farm together, and we divide it by a certain line. By-and-by we buy another farm. On what reason can it then be demanded of one or the other that he should divide that other farm by the same line? None in the world; but because he refuses to do it, can that furnish any reason for breaking up the division which was made of the first farm after the owner of one half had disposed of his part? Surely not. It is not an excuse worthy to be received.

Another one, I understand, is this: It is said we never were satisfied with it; the people of the northern States never were satisfied with that compromise. Well, sir, we never were dissatisfied with that part which you are trying to break up. Our dissatisfaction was with the other part of the compromise of which you have and hold the benefit. It seems to me a strange thing that such an excuse can be made. I presume every gentleman, in his early reading, has become acquainted with that story in the Vicar of Wakefield, in which it is related how Moses went and sold the Vicar's horse in the market to a fellow who put off upon him a quantity of mock spectacles in shagreen cases, which he brought home in his bosom, and showed triumphantly. It is not likely that the Vicar was very well satisfied with the trade which Moses had made, nor with the man's having cheated him; but I have never heard that the man after he had used up his horse, came back saying that he wanted the green spectacles, because the Vicar never liked the bargain.

In this case, there was a reliance and confidence in the high integrity of southern gentlemen—their chivalry if you please to call it so. At the North, one would say to another, "never will this compromise be repealed; it will never be suffered to be repealed by those gentlemen. We know them. They may have points of character arising from their social condition with which we are not altogether pleased, but they are highly honorable gentlemen; we have confidence in them; it will not be repealed." When at last this reliance misgave them—when they found that they had leaned upon a reed which pierced them, it went down like cold iron to the hearts of our people.

Southern gentlemen may consider it a matter of very little consequence how they are estimated in the free States; probably they do; but I can assure them that this nation attaches something more of importance to it. Mutual confidence in public men is one of the great safeguards for the continuance of our Union. A moral revolution always precedes one of another kind; and the giving up of that confidence with many of our countrymen and many of our fellow-men is like the giving up of the ghost. Gentlemen may have possibly noticed the letter of ex-Governor Hunt, of New York, in which he said that the South would, by a returning sense of justice, correct this matter. Will you correct it? May it be expected? It may be done; but I am sorry to say that I have very little hope that it will be.

There is another thing on which I will make a remark. It seems that both in season, and out of season, pains are taken to insist that all of us who desire that there should not be a spread of slavery into a country already free, who do not desire a propagation of it, and an enlargement of its borders, are, or ought to be, Abolitionists. It is said that we are Abolitionists as far as we go, and that, in point of fact, it is all one thing—we are all Abolitionists and Black Republicans. Mr. President, I do not speak of this point because it moves anything like indignation in me. It does not excite the least feeling in the world; but I would ask those gentlemen what they expect to gain, if they succeed in causing that belief? What is Abolitionism? How do we understand it? There are two classes of Abolitionists, as they exist with us, and probably elsewhere. One class hold that the United States Constitution gives a guarantee and countenance to slavery, and that, therefore, as their saying is, it is a "league with infamy," and should be broken up, and the Union under it destroyed. What is the other branch of them? The other party hold that, as the Constitution does not mention "slavery" anywhere, it is a charter of freedom, and, therefore, should be preserved, and used for the purpose of overcoming slavery everywhere. There are the two branches; that is Abolitionism.

Now, sir, those with whom I act hold that slavery is a local institution existing by the law of the country where it is; that it cannot go anywhere unless the laws go with it; that by the terms of the Constitution it is left to the action of the States where it exists. We have no disposition, either directly or indirectly, in any way, to use the powers of Congress under the Constitution in order, in any manner, to affect it where it exists. That is our position. Because we do not desire to extend it we are called Abolitionists. Suppose *we* were made to believe it. Suppose that all of us who are now called by different names—names of reproach, too, such as Black Republicans, and some sort of Americans—were made to believe, and the world was made to believe, that we were Abolitionists—who would be the gainer by it? Who would be benefited by it?

I cannot but call to mind a lesson from our political history on this subject. When the Parliament of Great Britain were about to pass their first stamp act, which was afterwards repealed and another one passed, Dr. Franklin was the agent for two colonies, Massachusetts and Pennsylvania, then residing in London. Our colonies kept agents in London, who were something like the Delegates of our Territories here. Though they did not have seats in Parliament, they were consulted in regard to the matters of the colonies. Dr. Franklin was called before a committee, and examined in relation to that law, and he was

asked his opinion as to whether the people of this country would submit to it cheerfully, or whether they would oppose it? Dr. Franklin told them that he thought they would not submit cheerfully, and he did not know whether they would submit at all. This was, I think, in 1764, the year after the treaty with France. They asked him what the difficulty was? He replied: "The people of the colonies acknowledge allegiance to the British Crown, and not only do they acknowledge that allegiance, but they are a very loyal people to that Crown. They hold their charters from it; they are attached to it as a Protestant Crown; they are attached to it in every way; but the people of the colonies do not hold that same obligation to the British Parliament. We consider that you have no right, in any form, to tax us where we are not represented." They said to Dr. Franklin: "There is nothing in that distinction; the laws we pass are the King's laws; opposition to the Parliament is opposition to the Crown; infidelity to the Parliament is infidelity to the Crown. The acts of the Parliament as approved are the acts of the Crown." "Well," said Dr. Franklin, "I have no desire to argue that question with the committee; our people think otherwise; but all I can say is, perhaps you can convince them that there is no difference; and, if you do, I think they will oppose the law altogether, and the Crown too." Sir, they persisted. Within three or four years afterwards they passed that law; they put it to the people of America; they insisted that opposition to their laws was opposition and rebellion to the Crown. How did they succeed in making them believe it? Read your Declaration of Independence, and what does it say? It charges, over and over, these very acts of the British Parliament as the acts of the Throne—the acts of the King, and says that they are the acts which define a tyrant. They had got to believe it then. They asserted it, and we know the consequences.

Now, sir, I do not know but that it may be made to be believed by us all, that we are all Abolitionists in the sense, if you please, which I have defined, and as understood everywhere; but suppose it should be believed, what would be the consequence? It is not necessary for me to answer. I do not see how any gain would come to the cause of the slaveholders, or the slaveholding part of the United States—and when I use this term I do not mean it in any reproachful sense. I do not see how an advantage could come to them. It may be a matter of taste. It seems that they have succeeded in making the people of Europe understand that we have a Republican *black* presiding in our House of Representatives—a Black Republican. It may be, that it would elevate the position and estimation of this nation to have it understood in Europe, that blacks become presiding officers. Perhaps it will be best to pursue it until we have a President that is black; but that is a matter of taste. Still, sir, it is part and parcel of the same proceedings, and gentlemen must pursue their own course about it; but it seems to me all this will not do any good. Something should be done to restore quiet; and if you could return to the condition of things before the act of 1854, I cannot but believe that a large body of my hearers, and members of the Senate from all parts of the country, would be glad that it had been continued so. If so, the evil can be corrected still. However, I will dwell no longer on that point.

Gentlemen will have perceived, I think, by this time, all the reasons which I can urge, why at any rate those laws—which they call such—of the Legislature which assembled in Kansas, should in some way or other be corrected; and we undoubtedly have the power to do it. There is one other course, and that is the one which is presented. May we not admit them under their constitution as they have formed it? The admission of a State must always rest in the discretion of Congress. This is the quietest way to settle this difficulty. Nobody has then to take back anything; no steps must then be retraced. It undoubtedly will result in quiet; it will be an end of controversy on the subject; and I do not see that gentlemen have any reason to believe that persistence in doing otherwise will be likely to produce any good at all. But, sir, I am not prepared at this moment to go at length into my reasons for believing as I do, that the best, the shortest, and the most quiet way is to admit that people with their constitution, and end the trouble. I will detain the Senate no longer.

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